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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2011 APR 12 PM 4:51 ✓

JEANNE HICKS, CLERK

BY: Ivy Rios

6 IN THE SUPERIOR COURT

7 STATE OF ARIZONA, COUNTY OF YAVAPAI

8 STATE OF ARIZONA,

V1300CR201080049

9 Plaintiff,

10 **STATE'S RESPONSE TO DEFENDANT'S**
11 **MOTION FOR MISTRIAL BASED ON**
12 **INTENTIONAL AND WILLFUL**
13 **SUPPRESSION OF EXCULPATORY**
14 **EVIDENCE**

15 vs.

16 JAMES ARTHUR RAY,

17 Defendant.

(The Honorable Warren Darrow)

18 The State of Arizona, through undersigned counsel, respectfully files this response to
19 Defendant's Motion for Mistrial Based on Intentional and Willful Suppression of Exculpatory
20 Evidence.

21 Defendant's Motion lacks candor to the Court. Defendant's allegations are not supported by
22 the record and the Motion is completely without merit.

23 The State agrees it inadvertently failed to disclose an email which now forms the basis for
24 Defendant's Motion. Defendant mischaracterizes the email as "an expert witness report." As
25 explained below, the email regurgitates facts known to all the parties, is completely consistent with
26 the State's investigative findings, and is consistent with the testimony in the case thus far. The author
of the email, Rick Haddow, was not retained by the State and the information in the email has been
fully disclosed and made known to Defendant for many months. Most important, the information in
the email is not exculpatory, is evidence of Defendant's guilt and is cumulative to information

1 already presented. Defendant's lack of candor to the Court in this Motion is causing unnecessary
2 delays in this trial.

3 For the reasons set forth in the following Memorandum of Points and Authorities,
4 Defendant's Motion should be denied.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **Relevant Facts:**

7
8 After the Indictment of Defendant, Detective Diskin was informed by Mr. Lou Diesel, the
9 attorney representing the family of Lizbeth Neuman, that he had retained an environmental
10 expert, Rick Haddow, in the civil case filed against Defendant. Mr. Diesel indicated Mr. Haddow
11 would be a *good witness in the State's criminal case against Defendant*.

12 Detective Diskin contacted Mr. Haddow and told him the State was interested in possibly
13 retaining him as an expert witness. On April 29, 2010, Mr. Haddow sent Detective Diskin an
14 email in which he "outlined" [his] "preliminary environmental investigation and analysis of the
15 sweat lodge indoor air quality and environmental conditions as experienced by Liz Newman." See
16 *Exhibit A, Email from Rick Haddow to Ross Diskin, 4/29/10*.

17
18 The email was not disclosed at that time as the information therein was described as an
19 "outline" and "preliminary." In addition, the State had not retained Mr. Haddow or paid him to
20 perform any review. Instead the information in the email was apparently the result of Mr.
21 Haddow's services under his agreement with Mr. Diesel. The State anticipated providing
22 materials to Mr. Haddow to review if the State retained him. The State further anticipated a full
23 report would then be prepared *if Mr. Haddow was retained*.

24
25 In October 2010, the State began to review what types of expert witnesses might be
26 necessary at trial. On October 14, 2010, in the State's 12th Supplemental Disclosure, the State

1 disclosed Steve Pace and Rick Ross as possible experts and disclosed their curriculum vitae. On
2 October 27, 2010, the State disclosed Richard Haddow as a possible expert and also disclosed his
3 address and his Curriculum Vitae. The disclosure statement indicated that Mr. Haddow "may
4 testify as to the air quality and environment within sweat lodge. No report prepared in this case."
5 *See Exhibit B, State's 15th Supplemental Disclosure.*
6

7 Following the disclosure of Mr. Haddow, the State determined it would not call him as a
8 witness. On December 7, 2010, Defendant requested interviews with all of the State's expert
9 witnesses. At this time, only Rick Ross, Steve Pace and Dr. Matthew Dickson had been retained
10 by the State and none of the experts had completed a final report. On December 10, 2010, the
11 State responded to Defendant's letter and indicated that it no longer intended to call Rick Haddow
12 and had not yet retained Douglas Sundling.
13

14 On February 4, 2011, the State received a six page letter from Defendant raising various
15 issues relating to disclosure, including a request for any statements of Rick Haddow. The State
16 did not file a formal response to the letter as it believed most of the issues raised had been
17 previously addressed or were no longer an issue. Moreover, the State was in the process of
18 finalizing exhibits and trial schedules. The lack of a formal response was not an attempt y the
19 State to conceal any information related to Mr. Haddow.
20

21 On March 31, 2011, the State received a letter from Defendant following up on the
22 February 4th disclosure request and requesting additional disclosure. Included in the request was
23 another request for any statements of Rick Haddow. In response, the State looked through its files
24 and found the email that is the subject of Defendant's Motion. Also included in the files were Mr.
25 Haddow's curriculum vitae that had been disclosed on October 27, 2010 and a blank
26 "Professional Services & Retainer Agreement." On April 4, 2011, the email and the blank

1 Professional Services & Retainer Agreement, along with numerous documents relating to civil
2 cases against Angel Valley, the Hamiltons and Defendant and James Ray International, were
3 disclosed in the State's 50th Supplemental Disclosure.

4 **The Law:**

5 **A. The State's failure to disclose Rick Haddow's email was inadvertent.**

6
7 The State concedes it inadvertently failed to disclose the email from Rick Haddow and
8 that it was an oversight. The State never intentionally decided not to disclose Rick Haddow's
9 email. As explained below, the information in the email is incriminating, not exculpatory, and the
10 State considered calling Mr. Haddow to testify about the air quality in the sweat lodge. Mr.
11 Haddow's email addressed only air quality issues surrounding Liz Neuman.

12 After receipt of the email, the State had a brief interview of Rick Haddow and determined
13 he could be an appropriate witness as to the air quality and environment within the sweat lodge.
14 The State disclosed Mr. Haddow as a witness along with his name, address and curriculum vitae,
15 and a summary of the expected scope of his testimony. Until that time, and to this date, the only
16 information the State received from Rick Haddow was the email, characterized by Mr. Haddow
17 as an outline of his "preliminary environmental investigation and analysis of the sweat lodge
18 indoor air quality and environmental conditions as experienced by Liz Neuman." It was the
19 State's understanding that this preliminary investigation was done pursuant to an agreement with
20 Lou Diesel, the civil attorney for the family of Lizbeth Neuman.
21

22
23 When the State disclosed him as a potential expert, it was the State's intent, if he was
24 retained, to provide him with all the evidence to review and render an opinion. When it became
25 apparent that information concerning the carbon dioxide and the air quality in the sweat lodge
26

1 was abundant, the State determined that Mr. Haddow's testimony would be cumulative and
2 unnecessary. Additionally, the State was concerned about Mr. Haddow's qualifications.

3 The State concedes the email should have been disclosed in the interest of full disclosure.
4 The State believes the better practice is to disclose even when it is not clear if disclosure is
5 required. To date, the State has disclosed over 8,000 pages of documents, including emails and
6 documents received from civil attorneys, hundreds of photographs and audio recordings in this
7 matter. Notwithstanding this concession, the egregious prejudice Defendant claims to have
8 suffered is simply not there. As documented below, all of the information that Defendant claims
9 to have been "blindsided" with has previously and timely been fully timely disclosed to him in
10 some form. Moreover, as evidenced by the State's action in disclosing Mr. Haddow as a possible
11 expert on "air quality and environment within the sweat lodge," it is clear the information is
12 incriminatory, evidencing Defendant's responsibility in this case for the deaths of the three
13 victims.
14

15
16 **B. The sweat lodge's design and construction, including the fact that the pit was off**
17 **center, has been timely disclosed.**

18 Defendant claims that had Mr. Haddow's email been disclosed, it "could have mounted a
19 defense that the sweat lodge's design and construction contributed to the physical cause of death."
20 Information regarding the construction of the sweat lodge, including the facts that the pit was off
21 center, that it was hotter where the decedents were positioned, and that no air was circulated in
22 this area, was all disclosed by the State through witness statements, scene diagrams, and in the
23 writing of another expert, Douglas Sundling. Furthermore, Defendant's own statements contradict
24 this new argument of surprise.
25
26

1 As early as December 1, 2009, Defendant focused his defense on the fact that he did not
2 build the sweat lodge and was not responsible for how it was constructed. In his letter to the State
3 dated December 1, 2009, subsequently posted on Defendant's website as "White Paper No. 1,"
4 Defendant stated the following:

5 1. Mr. Ray and JRI Did Not Build the Sweat Lodge

6 Mr. Ray and JRI did not build the sweat lodge. They did not choose to cover it
7 with blankets and plastic tarps. They had no responsibility for obtaining any
8 necessary building permit for the sweat lodge or for maintaining it after it was
9 built. The decision to place – or not to place – a temperature gauge or thermometer
10 in the sweat lodge was made by Angel Valley. Mr. Ray relied on Angel Valley, as
the property owner, to provide a safe sweat lodge under the Retreat contract.
Under settled law, this reliance was entirely proper.

11 *See Exhibit C, Defendant's Letter to Bill Hughes, December 1, 2009 at pg. 17.*

12 From its initial disclosure forward, the State repeatedly disclosed information relating to
13 the construction of the sweat lodge, including the fact that pit was off center, that the area where
14 the victims were positioned was hotter then the rest of the sweat lodge and received no air
15 circulation even when the flap was opened. Specifically, the State notes the following:

16 1. On February 3, 2010, Detective Diskin testified in front of the Yavapai
17 County Grand Jury. Included in his testimony was the fact that there was no air
18 circulation in the back of the lodge:

19 Q. Going back to Rosemary, you said when she went back in, she
20 had a better spot. What does that mean?

21 A. Well, that means that and she didn't say specifically by
22 the door. She said a better spot, but we assume that that means by
23 the door, because the people close to the door seemed to have the
24 least amount of problems, because they're getting a little bit of
25 relief when the door opens. Other participants towards the back said
26 that they got absolutely no relief when the flap was opened. There
was no air circulating. Grand Jury Transcript (GJT) at 63:5-14.

Q. Did you interview participants who stayed in the sweat
lodge for the entire time and did not seem to suffer from medical
injuries?

1 A. Yes, we did. We talked to some of the people that had
2 stayed in the whole time. We saw that it was pretty consistent that
3 the people that were closest to the flap had the least amount of
4 problems and people that were the furthest away from the flop had
the most amount of problems.

5 And also participants were telling us that in the back when
6 the flap was open, they got no relief whatsoever. And some of the
7 participants toward the flap said that when the flap was open, they
8 could feel some type of air, some type of cool breeze. GJT at 84:16-
85:1.

9 2. In YCSO Supplement 10, Detective Willingham's interview with Scott
10 Barratt on October 23, 2009, Mr. Barratt tells the Detective that "based on his
11 training and experience, calculated that for the area and length of time being an
12 hour and half they used up the air in the sweat lodge 4 times. Air quality was very
13 poor, steamy and moist and all the carbon dioxide that was being exhaled." This
14 supplement was disclosed in the EDC Disclosure on February 10, 2010. *See*
15 *Exhibit D, Supplement 10.*

16 3. In Defendant's Trial Exhibit No. 599, the transcript of Mr. Barratt's
17 interview, the full context of Mr. Barratt's statements to Detective Willingham is
18 set forth as follows:

19 BARRATT: And I computed that we consumed that air
20 volume four times while we were in there. And that was assuming
21 an hour and half time period. I think it worked out to we consumed
22 that air volume four times. So we were breathing in oxygen and
23 exhaling carbon dioxide and the air quality of course is very steamy
24 and heavy in moisture. So I mean the air quality is very poor.
25 Apparently the toxicologist hadn't found any toxicity in anybody's
26 blood but I know it wasn't very good air. Defendant's Trial Exhibit
No. 599 at 23-24. The audio recording of Mr. Barratt's interview
was disclosed in the State's First Supplemental Disclosure on
March 4, 2010.

Later in the interview, Mr. Barratt elaborates:

BARRATT: And I think the other thing too is that ...and I
kind of relate to it you know, of James is in there and he has the
advantage of being by the doorway so he gets some fresh air.
There's virtually no air movement in there, so when they opened
the door where we were, there was virtually I would say no relief.
Because on account of the domed effect of the sweat lodge there

1 was no air movement there. And atmosphere was totally trapped in
2 there. *Defendant's Trial Exhibit No. 599 at 24-25.*

3 4. In YCSO Supplement 27, Detective Johnson's interview with Randall
4 Potter on October 24, 2009, Detective Potter indicated that in contrast to a
5 previous sweat lodge he had participated in that "in this sweat lodge on the north
6 side where he sat in the first four rounds there was no air from the open flap." This
7 supplement was disclosed in the EDC Disclosure on February 10, 2010. *See*
8 *Exhibit E, YCSO Supplement 27.*

9 5. In YCSO Supplement 52, Detective Surak's interview of Julie Minn on
10 October 9, 2009, Ms. Min stated that "one of the times that the door was open she
11 noticed that the "lodge" was not centered over the pit where the rocks were. Minn
12 stated that she thought it was odd that the "lodge" was not centered over the pit.
13 From what she understands, the people that were on the side closest to the pit were
14 the ones that suffered the most." This Supplement was disclosed in the EDC
15 Disclosure on February 10, 2010. *See Exhibit F, Supplement 52.*

16 6. In YCSO Supplement 149, a transcript of Detective Johnson's interview
17 of Randall Potter was disclosed. The transcript contained the following discussion:

18 Det. Johnson: When you were in the back row before you left
19 the first time why exactly was it you left? Was it just the heat; was there a
20 steam issue, were there any other things going on?

21 Randall: Yeah it, what I in looking back on it, I think one of
22 the issues that was there was that the pit was off centered in my opinion
23 towards the north side. Though it was closer, right, and not only that but on
24 the south side when the door opened you got some fresh air, it cooled down
25 for a minute, you could breathe easier and there was more room to lay
26 down. All those things I think contributed to having the people in that region
walk away sort of you know unharmed where the people on the back half of
it didn't get any fresh air from when the door was open and were closer to
the pit and when the water was thrown onto the rocks it was thrown from the
south and so if you take a bucket and you throw the water out of it, four or
five gallons of water or whatever it is, the steam would travel (Inaudible).
Supplement 149 at 25.

Later in the interview, the off center pit was mentioned again:

Det. Johnson: So what do you think happened in there?

Randall: What do I think was the problem?

1 Det. Johnson: Right. Was it the lopsided construction you
2 think and just the number and heat of the rocks, the length of the
3 rounds, those things you were already telling me about.

4 Randall: Yeah and I think it was off center that you know played a
5 part in it and if it had doors on each side that would have helped cool
6 some of those people down, give them a little bit of fresh air.
7 Supplement 149 at 25. *See Exhibit G, Supplement 149.*

8 This supplement was disclosed in the State's Second Supplemental Disclosure on
9 March 16, 2010.

10 7. Scene diagrams were disclosed on June 14, 2010 in the State's 5th
11 Supplemental Disclosure. The diagrams were computer generated by Detective
12 Steve Page from measurements taken at the scene and clearly show the pit is off-
13 centered. In preparing State's Trial Exhibit 414, the blank outline of the sweat
14 lodge witnesses have been using to illustrate positions within the sweat lodge, the
15 State had Detective Page generate the diagram from his measurements. In the
16 Exhibit the pit is also off center. *See Exhibit H, Scene Diagrams.*

17 8. In the State's 24 and 25 Supplemental Disclosure Statements, the State
18 disclosed the website and a booklet titled, "Death & a Bogus Sweatlodge" written
19 by Douglas Sundling, who the State had disclosed as an expert on sweat lodge
20 ceremonies. On his website, Mr. Sundling stated the following:

21 Based on the testimony of Randy Potter and Julie Minn, the pit into which
22 the hot rocks were placed was off center toward the north. A capable sweatlodge
23 facilitator knows that a slight dip or rise in the ground floor of a sweatlodge affects
24 the amount of heat experienced by folks at those spots. A slight dip creates a
25 cooler spot; a slight rise or hump creates a hotter spot. To place the pit off-center
26 toward the north and further from the door in the south meant that a lot more heat
would be concentrated in the north. And the size of the enclosed, tarped domed
structure meant that little if any fresh outside air would reach the north when the
door was opened between rounds.

Mr. Sundling also indicated that "the lodge's skin of plastic tarps and other
coverings would have accumulated entrapped heated air, unless all the sides had
been elevated to allow for ventilation.

Mr. Sundling's statements were disclosed on December 29, 2010. *See Exhibit I,
Excerpts from Website.*

Based on all of the above, it is clear that the State had disclosed the information relating to
the construction of the sweat lodge, including the fact that the pit was off center, that it was hotter

1 in the north end of the lodge due to the location of the pit and that participants in the north area
2 received no air circulation even when the flap was opened. Moreover, since December 1, 2009,
3 Defendant has asserted he is not responsible for the deaths of Kirby Brown, James Shore and
4 Lizbeth Neuman because he did not build the sweat lodge. He has repeatedly emphasized this fact
5 in his opening and his cross-examination of the State's witnesses. Accordingly, had Defendant
6 wished to pursue a defense that the deaths occurred because of faulty construction, he had the
7 necessary information to do so even prior to the date of the State's first disclosure.
8

9 **C. The fact that carbon dioxide poisoning was possible and found to be a factor by**
10 **an expert in one of the civil cases was also disclosed.**

11 Defendant further claims prejudice by stating that "Haddow identifies a possible cause of
12 death, carbon dioxide, different from the heat stroke the State has alleged throughout trial." The
13 statement misstates the contents of Mr. Haddow's email. In his initial paragraph, Mr. Haddow
14 states that "the environmental condition existed for Liz to cause a hazardous internal temperature
15 leading to hyperthermia and organ failure." This is exactly the cause of death stated in Lizbeth
16 Neuman's autopsy report. Mr. Haddow opines that the section of the lodge where Ms. Neuman
17 was positioned experienced "hazardous concentrations of carbon dioxide (a condition known as
18 hypercapnia), and that "Liz's health condition was worsened by the length and exposure to *both*
19 *heat and carbon dioxide.*"
20

21 For the Defendant to claim surprise at this conclusion is disingenuous at best. As noted
22 above, the lack of air circulation in the back section of the sweat lodge was repeatedly disclosed.
23 Moreover in Detective Diskin's interview on June 16, 2010, Detective Diskin told the defense
24 that carbon dioxide was a consideration in the cause of death.
25

26 DO: So during the course of your investigation, did you consider any
other possibilities as to cause?

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DISKIN: Yes

DO: What were the other possibilities that you considered?

DISKIN: Carbon dioxide poisoning.

DO: Okay.

LI: Carbon dioxide or monoxide?

DISKIN: Carbon dioxide. Carbon monoxide was ruled out.

LI: Okay.

DO: Right. What else?

DISKIN: Lack of oxygen, which apparently is different than carbon dioxide .
..

DO: Okay

DISKIN: Poisoning. I don't know why.

DO: What else if any?

DISKIN: Then of course the heat, you know, the hyperthermia. And then any type of toxin.

DO: Did you at any point in your investigation learn of anything that suggested the possibility of other causes than heat?

DISKIN: No. Other than in addition to the heat there was some discussion that the lack of oxygen or carbon dioxide in addition to the heat may have been a factor.

DO: Okay. So with that explanation, is it still your answer that you did not learn anything in your investigation that indicated another possible cause other than heat?

DISKIN: Another sole cause other than heat.

DO: Okay. Why are you qualifying that with sole, is there something else?

1 DISKIN: Because, no, because carbon dioxide poisoning and hyperthermia
2 could both have contributed.

3 DO: Got it. So other than those two, heat and carbon dioxide, did you
4 learn of anything else to suggest other possible causes?

5 DISKIN: No.

6 DO: Okay. Let me now move to your investigation of Daniel Pfankuch.

7 *Defense Trial Exhibit No. 625, Transcript of Interview of Detective Diskin, 6/16/10, at*
8 *47:25 to 48:28.*

9 Additional disclosure relating to the possibility of carbon dioxide poisoning on other
10 participants was made in the months preceding trial.

11 On November 23, 2010, in the State's 19th Supplemental Disclosure, the State disclosed
12 two Independent Medical Report/Evaluation Preliminary Reports prepared by Dr. Francis
13 O'Connor. *See Exhibits J and K, Dr. O'Connor's Reports.* Like Rick Haddow, Dr. O'Connor
14 had been retained by the civil attorney for Sidney Spencer and Dennis Mehravar. In Dr.
15 O'Connor's reports, he opines that both Ms. Spencer and Mr. Mehravar collapsed into a coma
16 (Ms. Spencer) or into unconsciousness (Mr. Mehravar) "secondary to a combination of factors
17 including: prolonged hypoxia and hypercarbia in a crowded sweat lodge; exposure to
18 environmental extreme temperatures; attendance at an event where "pushing beyond ones limits"
19 was encouraged." In both reports, Dr. O'Connor indicates that "[d]escriptions at the scene,
20 knowledge of the sweat lodge injury pattern, and knowledge of [Mr. Mehravar's] [Ms.
21 Spencer's] presentation suggest that a combination of hypoxia (low oxygen) and hypercarbia
22 (high carbon dioxide), in concert with a heat injury, in a crowded environment most probably
23 contributed" to the condition of Mr. Mehravar and Ms. Spencer. Although Dr. O'Connor was not
24 retained by the State, his reports came into the State's possession from his civil attorneys and
25
26

1 were disclosed. The reports were also provided to the State's expert medical witness, Dr.
2 Dickson. This was also disclosed to Defendant.

3 Finally, in Mr. Stephen Ray's medical records disclosed on February 4, 2011,¹ under a
4 section titled "Assessment and Plan," it states the following: Victim of mass casualty incident
5 involving a sweat lodge: There was some concern for basically anoxia or carbon dioxide
6 poisoning." *Trial Exhibit 213, Stephen Ray's Medical Records at Bates No. 7095, 7098.*

7
8 Defendant's representation to this Court that he had no knowledge of the possibility of
9 carbon dioxide as a contributing factor to the deaths and injuries suffered by participants *is*
10 *patently false.*

11 **D. The civil lawsuits.**

12 The civil lawsuits filed against Defendant stemming from the October 8, 2009 events also
13 demonstrate that Defendant was fully aware of the issue of lack of oxygen inside the sweat
14 lodge.² On October 30, 2009, less than one month after three people passed away during
15 Defendant's sweat lodge ceremony, a civil complaint was filed against Defendant and others by
16 the family of Lizbeth Neuman. This lawsuit alleges, *inter alia*:

17
18 33. Defendants constructed the "sweat lodge," without ventilation, light,
19 or a temperature monitoring device.

20 . . .

21 59. Defendants had prior knowledge that participation in the 'sweat
22 lodge" ceremony had led to participants passing out, getting sick, dehydrated, or
severely ill.

23 ¹Partial medical records for Mr. Ray were disclosed in the State's Supplemental Disclosure on March 16, 2010.
24 Following Mr. Ray's defense interview, the defense requested his complete records. Thereafter, the State obtained a
records release from Mr. Ray and obtained his complete records which are marked and admitted as Trial Exhibit No.
25 213.

26 ² On March 24, 2011, the State filed a Motion to Compel Disclosure of all pleadings and all discovery from all
lawsuits filed against Defendant arising out of Spiritual Warrior 2009. Defendant failed to file a Response and this
Court has not yet ruled on the State's Motion. The State separately filed a Motion for Ruling on this Discovery
Request. The State does not know what information relating to air quality inside the sweat lodge arising from the
civil lawsuits is in the Defendant's possession.

1 *See Neuman v Ray, CV 2009-0977, Coconino County Superior Court.*

2 On November 6, 20009, less than one month after three people passed away during
3 Defendant's sweat lodge ceremony, a second civil complaint was filed against Defendant and
4 others by participant Sydney Spencer and Mehrdad (Dennis) Mehravar. This lawsuit alleges,
5 *inter alia:*

6
7 XXVII: The "sweat lodge" ceremony exposed Plaintiffs Sidney Spencer and
8 Dennis Mehravar to extreme heat, inadequate hydration, oxygen and toxic fumes.

9 ...

10 XXXII: Defendants constructed the "sweat lodge" without adequate ventilation, light, or
11 a temperature monitoring device.

12 ...

13 XXXVIII: Defendant negligently and carelessly constructed a "sweat lodge" on the
14 premises of Angel Valley Spiritual Retreat Center without proper permitting and
15 inspection by applicable governmental authorities.

16 ...

17 XLIII: Defendants exposed Plaintiff and others in this sweat lodge to excessive heat,
18 toxic fumes, inadequate hydration, oxygen and inadequate medical care.

19 ...

20 XLVI: The Defendants were further negligent in failing to have a thermometer or other
21 measuring device to regulate the heat level in the sweat lodge.

22 ...

23 XLVII: Defendant failed to properly ventilate the sweat lodge to avoid the accumulation
24 of excessive heat, fumes and gases, and the loss of oxygen.

25 *See Spencer v. Ray, CV 2009-0978, Coconino County Superior Court.* It is clear from the Motion
26 to Dismiss and Response filed in this lawsuit that the design and the building of the sweat lodge is
a matter addressed by the parties.

E. The email is incriminatory, not exculpatory or material under *Brady*.

The information of the likely presence of carbon dioxide and the off center location of the
pit inside the sweat lodge is now new nor does it suggest in any way a lack of responsibility by

1 Defendant for the deaths of the three victims. Bullet point to bullet point, Rick Haddow
2 summarizes why Defendant is guilty of manslaughter. It is hard to imagine anything less
3 exculpatory than evidence of the poor air quality in the sweat lodge caused by the breathing of
4 the large number of participants, crowded into a small area and discouraged from leaving; the
5 sweat lodge did not create the carbon dioxide; the source of the carbon dioxide is the breathing
6 of the participants. Testimony from Rick Haddow on this topic would be cumulative. The State's
7 decision not to call Mr. Haddow as an expert was in part for this reason.

8
9 Under *Brady v. Maryland*, 373 U.S. 83, 83 S.Ct. 1194 (1963), a defendant only has a due
10 process right to disclosure of "material" exculpatory evidence. *State v. Atwood*, 171 Ariz. 576,
11 606. 832 P.2d 593, 623 (1992) (overruled on other grounds). The standard for whether *Brady*
12 requires disclosure is if the evidence is material to the issue of guilt or innocence, not whether
13 the impact of the undisclosed evidence had any impact on the defendant's ability to prepare for
14 trial. *United States v. Agurs*, 427 U.S. 97, 112 n. 20, 96 S.Ct. 2392, 2402 (1976). Evidence is
15 "material" for the purposes of *Brady* only if "there is a reasonable probability that, had the
16 evidence been disclosed to the defense, the result of the proceeding would have been different. A
17 'reasonable probability' is a probability sufficient to undermine confidence in the outcome."
18 *United States v. Bagley*, 473 U.S. 667, 682, 105 S.Ct. 3375 (1985). In determining materiality,
19 the undisclosed evidence is to be taken and analyzed as a whole, not piece by piece. *Kyles v.*
20 *Whitley*, 514 U.S. 419, 434, 115 S.Ct. 1555, 1567 (1995). "[T]he Constitution is not violated
21 every time the [prosecutor] fails or chooses not to disclose evidence that might prove helpful to
22 the defense." *Id.* (citing *Bagley*, *supra* at 675, 105 S.Ct. at 3380 and n. 7.)

23
24
25 The State disagrees with Defendant's characterization of Richard Haddow's e-mail as
26 being favorable to Defendant or material to his defense. As noted above, the information

1 contained in the e-mail had been disclosed in multiple forms prior to trial. The fact that the State
2 disclosed Mr. Haddow as a possible expert knowing his opinion as reflected in his e-mail is
3 strong support for the State's position that it considered Mr. Haddow's testimony would be
4 inculpatory. An objective review of the content of the e-mail indicates Mr. Haddow believed Liz
5 Neuman suffered from hyperthermia and hypercapnia due to exposure to heat and carbon dioxide
6 resulting from the conditions inside the sweat lodge including the off center pit. This conclusion
7 is consistent with the State's theory of the case and consistent with Detective Diskin's statements
8 to the defense during his interview. The victims' died due to the conditions within the sweat
9 lodge which were produced by extended exposure to extreme heat and steam controlled by
10 Defendant. There is nothing in Mr. Haddow's e-mail that explains why over the course of several
11 years, in both the same and different structures, the only time sweat lodge participants suffered
12 any ill effects was in Defendant's sweat lodges, which were longer and hotter, conditions
13 controlled by Defendant.
14

15
16 Finally, even if this Court was to find the e-mail does qualify as *Brady* material, it has
17 now been disclosed. "When previously undisclosed exculpatory information is revealed at the
18 trial and presented to the jury, there is no *Brady* violation." *State v. Bracy*, 145 Ariz. 520, 528,
19 528, 703 P.2d 464, 472 (1985). "This is true even though the pretrial non-disclosure may have
20 affected appellant's trial preparation and strategy." *State v. Jessen*, 130 Ariz. 1, 4, 633 P.2d 410,
21 413 (1981) (citing *Agurs, supra*). In this case, the Haddow e-mail is merely cumulative to the
22 information already disclosed by the state, and therefore does not rise to the level of materiality
23 discussed in *Bracy, supra* at 529, 703 P.2d at 473.
24

25 **D. Mistrial is not an appropriate sanction for late disclosure.**

26 Rule 15.7, Ariz. R. Crim. P., sets forth provisions for court-imposed sanctions for failure

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1 to make a disclosure required by Rule 15. The imposition and choice of sanctions are within the
2 discretion of the trial court. *See e.g., State v. Jackson*, 186 Ariz. 20, 24, 918 P.2d 1038, 1042
3 (1996). In determining whether to impose sanctions and what sanctions should be imposed, the
4 court should consider "the significance of the information not timely disclosed, the impact of the
5 sanction on the party and the victim and the stage of the proceedings at which the disclosure is
6 ultimately made." Rule 15.7(a), Ariz. R. Crim. P., as well as any other relevant factor. *State v.*
7 *Towery*, 186 Ariz. 168, 186, 920 P.2d 290, 308 (1996). Sanctions should be proportionate to the
8 harm caused, and cure it to the maximum extent that is practicable. *State v. Krone*, 182 Ariz.
9 319, 322, 897 P.2d 621, 624 (1995). "In selecting the appropriate sanction, the trial court should
10 seek to apply sanctions that affect the evidence at trial and the merits of the case as little as
11 possible since the Rules of Criminal Procedure are designed to implement, not to impede, the fair
12 and speedy determination of cases." *State v. Roque*, 213 Ariz. 193, 210, 141 P.3d 368, 386
13 (2006) (citing *State v. Fisher*, 141 Ariz. 227, 246, 686 P.2d 750, 769 (1984)).

16 Defendant insists the only permissible sanction is a mistrial with retrial barred. As noted
17 above, the State does not agree that Rick Haddow's report was exculpatory or contained any
18 information not previously disclosed in some form to Defendant. Despite Defendant's claim of
19 fatal error, such prejudice is not present. What is clear is that this disclosure, while late, was
20 made while the State was still presenting its case-in-chief. The State estimates it has
21 approximately three weeks left before it rests. This gives Defendant three weeks to adjust its
22 case-in-chief if needed. Moreover, should Defendant seek to call an expert on air quality, it could
23 call Rick Haddow. Mr. Haddow has never been retained as a State's expert. Finally, of the
24 witnesses who could testify as to the construction of the sweat lodge, only the Mercers have been
25 called. At the conclusion of Mr. Mercer's testimony the State requested he remain subject to
26

1 recall. Therefore, he is available to the defense if they wish to call him. The remaining witnesses
2 would appear to be Debra Mercer, Amayra and Michael Hamilton and Gary Palisch. Ms. Mercer
3 will be cross-examined and the Hamiltons will be called this week so Defendant will have an
4 opportunity to examine them on the construction of the lodge and the location of the pit. Mr.
5 Palisch was included on Defendant's list of witnesses. The State believes he is expected to testify
6 regarding the construction of the sweat lodge.
7

8 Allowing Defendant an opportunity to call an undisclosed expert if needed, including Mr.
9 Haddow will cure any prejudice incurred by the late disclosure of Mr. Haddow's e-mail. A
10 mistrial is not appropriate given the facts in this matter.

11 **E. This Court should consider the victims' constitutional rights to justice and due**
12 **process in imposing any sanction against the State.**

13 The Arizona Constitution provides that a victim of a crime has a right to justice and due
14 process. In order to preserve and protect these rights, a victim of a crime has a right to be treated
15 with fairness, respect, and dignity throughout the criminal justice process. Ariz. Const. Art. II,
16 §2.1(A)(1). The Arizona Supreme Court has recognized that courts are obligated to protect the
17 rights set forth in the Victims' Bill of Rights. *State v. Mata*, 185 Ariz. 319, 337, 916 P.2d 1035,
18 1053 (1996). Courts must follow the plain language of the Victims' Bill of Rights. *Knapp v.*
19 *Martone*, 170 Ariz. 237, 239, 823 P.2d 685, 687 (1992). Further, A.R.S. § 13-4418 provides that
20 these laws are to be "liberally construed to preserve and protect the rights to which victims are
21 entitled." As noted above, Rule 15.7, Ariz. R. Crim. P., requires that a trial court consider the
22 impact on the victim in determining an appropriate sanction to impose for a disclosure violation.
23
24

25 Granting a mistrial would ignore the victims' right to justice and due process, and, instead
26 totally deprived the victims' family of any chance of seeing justice done in this matter.

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RESPECTFULLY submitted this 12th day of April, 2011.

SHEILA SULLIVAN POLK
YAVAPAI COUNTY ATTORNEY

By 

BILL R. HUGHES
DEPUTY COUNTY ATTORNEY

COPIES of the foregoing emailed this
12th day of April, 2011:

Hon. Warren Darrow
Dtroxell@courts.az.gov

Thomas Kelly
tkkelly@thomaskellypc.com

Truc Do
Tru.Do@mto.com

By: 

COPIES of the foregoing delivered this
12th day of April, 2011, to

Thomas Kelly

Truc Do
Munger, Tolles & Olson LLP
355 S. Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

By: 

From: Rick Haddow [mailto:rhaddowpi@earthlink.net]

Sent: Thursday, April 29, 2010 6:49 AM

To: Ross Diskin

Subject: Summary of Environmental conditions experienced by Liz Neuman at the Angel Valley Retreat sweat lodge

Ross,

For your review, I have outlined my preliminary environmental investigation and analysis of the sweat lodge indoor air quality and environmental conditions as experienced by Liz Neuman. My determination of the environmental factors which contributed to her death is based on the following findings:

- The lodge maintained hazardous levels of indoor air temperature worsened by saturated air from the application of water onto the heated rock pit. The high relative humidity allowed the stored energy from the rock pit to enter Liz's lungs heating her core. This high relative humidity and temperature created an environmental condition that would not allow Liz's body the ability to self regulate her internal temperature. The environmental condition existed for Liz to cause a hazardous internal temperature leading to hyperthermia and organ failure.
- A contributing cause of Liz's hyperthermia is based on the rock pit's offset of center, closer to the North West section of the lodge where Liz was positioned in the lodge. The radiant heat energy from the rock pit would make this NW section the hottest in the lodge. The participant's space between the rock pit and the exterior wall would be the smallest inside the lodge.

008062

4/3/2011

- The NW section in which Liz was positioned experienced hazardous concentrations of carbon dioxide (a condition known as hypercapnia). The NW section of the lodge experienced a radiant heat barrier that would greatly contribute to the section's air stagnation and build up of carbon dioxide. This heat barrier would severely limit Liz's space from being ventilated or affording an air exchange when the door was opened between rounds.
- Liz's health condition was worsened by the length and exposure to both heat and carbon dioxide. Liz never left the lodge or changed her position inside. Participants James Shore and Kirby Brown experienced these same environmental conditions and died. Those other participants who experienced severe illness and hospitalization were also in the same general area as Liz.
- Both hyperthermia and hypercapnia will cause and multiply the adverse effects to the body's ability to self regulate the gaseous components of the blood chemistry, leading to a chemical blood imbalance causing internal organ failure.
- The lodge construction created a nearly air tight structure. The rock pit radiant heat would create positive pressure inside the lodge. This positive pressure would lessen the lodge's ability to exchange inside air to outside ambient air. The lodge door opening would have a small air exchange and heat loss in the area of the door. This heat loss would lessen the participant's exposure to the environmental conditions. Thus, for those participants located between the rock pit and the door, environmental conditions would have differed greatly from those experienced by Liz located between the rock pit and the exterior wall.
- Environmental health effects are based on pollutant concentration, temperature and exposure. For those participants moving from one section of the lodge to another or leaving the lodge all together between rounds, the accumulated effect to their blood chemistry would again, greatly differ from that of Liz and those participants located in her section of the sweat lodge.
- The environmental conditions and exposure length would most certainly impair cognitive function, thereby rendering Liz incapable of reasoning or making sound judgments that would have enabled her to make the decision to remove herself from the lodge for self preservation.

If you or others require additional information please do not hesitate to contact me.

Respectfully,

Rick Haddow
Haddow Environmental Research Organization
AZ DPS Business license 1003813
602-980-5034
RHaddowPI@earthlink.net
Fax 480-759-5009

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3 Attorneys for the STATE OF ARIZONA

4 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

5 IN AND FOR THE COUNTY OF YAVAPAI

6 STATE OF ARIZONA,

7 Plaintiff,

8 v.

9 JAMES ARTHUR RAY,

10 Defendant.

CAUSE NO. V1300CR201080049

Division PTB

FIFTEENTH SUPPLEMENTAL
DISCLOSURE BY STATE OF MATTERS
RELATING TO GUILT, INNOCENCE,
OR PUNISHMENT

13 Pursuant to Rule 15.1(a) and (b) of the Arizona Rules of Criminal Procedure, the
14 Yavapai County Attorney's Office hereby files the following material and information within
15 its possession or control relative to guilt, innocence, or punishment, and further notifies the
16 defendant(s) that said material and information is either typed on this form, is attached hereto
17 and incorporated herein by reference (**) or is available to the defendant(s) for examination
and reproduction at the office of the Yavapai County Attorney (****) or has been previously
provided to defendant (**), or to be disclosed upon receipt (****)

18 1. The names and addresses of all persons whom the prosecution will call as
19 witnesses in the case-in chief and or rebuttal, together with their relevant written or recorded
statements:

20 NAME ADDRESS STATEMENT

21 PRIOR SWEAT LODGE OR SEMINAR PARTICIPANTS

22 (1) Paula Aletto (2008 Spiritual Warrior)

**

23 JRI STAFF (CURRENT AND PRIOR)

24 (2) Amy Hall

25 Letter disclosed in
Twelfth Supplemental
Disclosure at
26 Bates No. 5230

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2. All statements of the defendant and of any person who will be tried with him:

3. All then existing original and supplemental reports prepared by a law enforcement agency in connection with the particular crime with which the defendant is charged.

YCSO DR 09-040205 Supplements 163-165, Bates No. 5422-5504

4. The names and addresses of experts who have personally examined the defendant's or any evidence in this case, together with the results of physical examinations and of scientific tests, experiments of comparisons, including all written reports or statements made by them in connection with this case:

Name	ADDRESS	STATEMENT OR REPORT
Richard Haddow	6303 E. Windsong St. Apache Junction, AZ 85119	May testify as to air quality and environment within sweat Lodge. No report prepared in this Case. Curriculum Vitae at Bates No. 5507-5509

5. A list of all papers, documents, photographs or tangible objects which the prosecution will use at trial or which were obtained from or purportedly belong to the defendant(s):

	Item	Comments/Bates No.	Status
(a)	DSS recording of Follow-up Interview of Barbara Waters	N/A	**
(b)	DSS recording of Interview of Paula Aletto	N/A	**
(c)	E-mail received from Prescott E-News re: comment posted an article	5510-5512	**

6. A list of all prior felony convictions of the defendant which the prosecution will use at trial:

7. A list of all prior acts of the defendant(s) which the prosecution will use to prove motive, intent, or knowledge or otherwise use at trial:

8. All material or information which tends to mitigate or negate the defendant's guilt as to the offense charged or which would tend to reduce his punishment, including all prior felony convictions or witnesses whom the prosecution expects to call at trial:

9. The results of any electronic surveillance of any conversations to which the defendant was a party, or of his business or residence:

10. All search warrants that have been executed in connection with this case:

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1 11. The identity of any informant(s) involved in this case (if the defendant is
2 entitled to know this fact under Rule 15.4(b) (2).

3 12. Other:

4 (a) Fee Agreement for Steven Pace dated October 19, 2010, Bates No. 005505-
5 005506)

6 DATED this 27 th day of October, 2010.

7 SHEILA SULLIVAN POLK
8 YAVAPAI COUNTY ATTORNEY

9 Sheila Polk

10
11 COPY of the foregoing mailed
12 October 27th, 2010 to:

13 Thomas Kelly

14
15 By: Kathy Danner

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BY E-MAIL AND FEDERAL EXPRESS

Mr. Bill Hughes
Supervising Deputy County Attorney
Yavapai County Attorney's Office
255 East Gurley Street
Prescott, AZ 86301

Re: James Arthur Ray

Dear Bill:

Thank you for the opportunity to discuss this case with you.¹ We understand that your office is reviewing the circumstances surrounding the Sedona deaths and considering whether or not these deaths resulted from negligent homicide. This letter sets forth the facts and legal analysis demonstrating that the sweat lodge deaths were a tragic accident and not the result of criminally negligent conduct.

We have interviewed over twenty people, including participants who attended the Spiritual Warrior Retreat (the "Retreat"), James Ray International ("JRI") employees and volunteers both inside and outside the sweat lodge; the man who built the sweat lodge under

¹ This letter is a protected confidential communication pursuant to Ariz. Evid. Code §§ 408, 410 and Ariz. R. of Crim. P. 17.4(f). It does not purport to present what every witness would say about every fact or event. Rather, it describes what we believe the key evidence would show based on an assessment of that evidence and the inferences to be drawn from the evidence.

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contract with the Angel Valley; and a Native American expert on the construction and use of sweat lodges. We respectfully submit that a review of these and other facts shows that the deaths were heartbreaking and tragic but were not the result of criminal negligence on the part of James Ray or JRI.

I. INTRODUCTION

This was a terrible accident. Much has been written and said about this matter – some true, some not – but nothing will ever alter that simple fact. Mr. Ray was and is devastated. The victims were friends and students. He cared deeply for all of them.

Criminal charges would compound this tragedy, regardless of outcome. Such charges would be the only sweat lodge-related criminal prosecution of which we are aware. And because such a prosecution would constitute an unprecedented expansion of the law on negligent homicide, it would face profound factual and legal challenges. An evaluation of whether negligent homicide charges should be brought usually involves two factors: (1) whether the activity that caused the death is inherently criminal or unsafe; and (2) whether the party's conduct during the activity created a substantial and unjustified risk of death that he, in a gross deviation from the reasonable standard of care, failed to perceive. In this case, each of these factors weighs strongly against criminal charges.

Holding a sweat lodge ceremony, by itself, is not criminally negligent behavior.

Sweat lodges and their equivalents have been used by many cultures – from Native Americans to ancient Romans – for thousands of years. Sedona is home to hundreds of sweat lodges; urban areas as far away as Chicago offer downtown spas specializing in sweat lodges. On occasions, participants in sweat lodge ceremonies have died from accidental hyperthermia. To the best of our knowledge, not one of these deaths has ever been the subject of a criminal prosecution, for a simple reason: the operation of a sweat lodge is not inherently illegal or criminally negligent. Unlike the types of activities typically involved in negligent homicides – driving drunk, illegally discharging firearms and other inherently unsafe and/or illegal acts – conducting a sweat lodge ceremony falls far outside of the heartland of activity Arizona criminal law seeks to discourage. In criminal negligence terms, sweat lodges do not pose “a substantial and unjustified risk of serious injury or death.”

Mr. Ray did not commit criminally negligent conduct in holding this year's Spiritual Warrior sweat lodge. Mr. Ray acted reasonably in conducting the sweat lodge at this year's Retreat. He chose to hold the Retreat at Angel Valley, a well-regarded facility that has hosted Spiritual Warrior since JRI began the annual event seven years ago. Angel Valley, like many organizations in Sedona, combines spiritual philosophy with various facilities for its guest and group retreats. Those services include providing a sweat lodge “for up to 75 people, without or with facilitator and fire-tender(s).” (Ex. A at 3.)

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Page 3

Pursuant to its contract with JRI, Angel Valley and/or its agents built and maintained the sweat lodge. As in past years, Angel Valley provided the stones and water used in the sweat lodge ceremony. JRI, as well as numerous other retreat groups, used this exact same sweat lodge before the recent event without serious incident.

Like most sweat lodge ceremonies, Mr. Ray conducted the Retreat sweat lodge as a series of short rounds; in this case, the eight rounds lasted from 10 to 15 minutes. No one prevented participants from leaving the sweat lodge, either between or during the rounds. To the contrary, the evidence would show that some 15-20 people came and went between rounds. Mr. Ray did encourage people to stay inside the sweat lodge while a round was underway. This precaution enhanced the safety of the event: the sweat lodge was pitch black when the flap was closed and there was a hot stone pit in the middle of it. Even so, the evidence would show that neither Mr. Ray nor anyone else physically prevented people from leaving in the middle of a round. At least one participant simply lifted up the side of the tent and left.

No one, including Mr. Ray, could have foreseen sweat lodge consequences even remotely close to what occurred here. After the single incident in 2005 in which a participant required medical attention, JRI took extensive precautions to prevent any additional problems, including shortening the number of rounds in the sweat lodge ceremony; stationing a registered nurse and five other JRI personnel or experienced volunteers outside the tent; setting up a care station with water, electrolytes, lemons, oranges and watermelon; having buckets of water and hoses available to cool people off; and training staff members in CPR. These precautions have been more than sufficient to care for sweat lodge participants in the past and exceed the care available in traditional lodges. Neither Mr. Ray nor JRI had any reason to think that more was required. Their past efforts make clear that if Mr. Ray or JRI believed anything more was needed, they would have done it. Any failure to foresee the need for the type of medical attention required at the recent Retreat does not constitute the "gross deviation" from a reasonable standard of care required to support criminal negligence charges.

Mr. Ray and JRI took additional precautions throughout the Retreat, constantly reminding people to prepare for the activities by hydrating. The evidence would show that the words "hydrate, hydrate, hydrate" became the Retreat's mantra. Prior to the sweat lodge, Mr. Ray informed Retreat participants that it would be very hot and very intense.

Despite the innuendo in various media accounts, Mr. Ray did not lead or pressure participants into making a choice they otherwise would not have made. This was a 5-day retreat, not a cult. The JRI philosophy is a practical approach to creating a successful life, not a religious practice. The participants – some of whom had attended many JRI events, some who had had only a brief introduction – were educated, successful people who were looking for a physical, mental and emotional challenge. Those who chose to participate in the sweat lodge, and in any other event at the Retreat, did so voluntarily and after having been informed of the risk. JRI informed participants in writing that the Spiritual Warrior activities could lead to serious injury, up to and including death. Each participant signed a comprehensive release form that spelled out that the activities could include a sweat lodge with tight, enclosed spaces and intense

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temperatures. (Ex. F.) The evidence would show that participants understood from this release and from Mr. Ray's description of the sweat lodge that it was going to be hot and uncomfortable and that the decision whether to go in at all, and whether to stay in once there, was up to them. One Retreat participant chose not to participate at all.

Contrary to the one-sided reports in the media, Mr. Ray did not "abandon" the Spiritual Warrior participants. The moment Mr. Ray and the JRI team learned of the emergency situation, 911 was immediately called, and the team took action. Team members administered CPR, doused people in water to cool them off, provided drinking water and electrolytes, held IVs for paramedics, and provided updates to the other participants. Mr. Ray helped participants and worked with his team until Sheriff's Detectives detained him until approximately 1:00 a.m. the next morning. He repeatedly asked Sheriff's officials to allow him to speak with participants. When that was not possible, he sent a message to participants through a JRI employee.

In short, before, during and after the sweat lodge ceremony, the circumstances do not support charges of criminally negligent homicide.²

II. FACTS

A. Mr. Ray's Background

Mr. Ray is the 51-year old founder and CEO of JRI. He is not a mystic or "spiritual guru." He grew up in Tulsa, Oklahoma, as the son of a Protestant preacher. After obtaining a 2-year certificate from a Tulsa junior college, he went to work, eventually getting a job with Southwest Bell, then part of the AT&T network.³ Mr. Ray spent about 14 years with AT&T, much of it as an internal trainer at the AT&T School of Business. In this capacity, he provided training on a wide range of topics – from team-building to time management to diversity training. It was here that he learned many of the tools that he would apply to his later work.

In 1992 Mr. Ray started his own company, Quantum Consulting Group, offering management training and consulting services similar to what he had provided at AT&T. He contracted with mainstream companies such as Praxis, the educational testing company based in Utah, and The Felicity Group, Ltd., a Chicago-based consulting company, to provide services to

² The reasons for this tragic accident may never be known, in part because we understand that Angel Valley subsequently destroyed the sweat lodge structure and coverings and buried the stones used in the ceremony. The loss of this critical environmental information may render determining the exact cause of death impossible, and the loss of this critical evidence from any "crime scene" would itself undermine any criminal charges against Mr. Ray.

³ He has since attended night and weekend college courses and is five hours short of a degree in Applied Behavioral Sciences.

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clients that included Boeing Aircraft, Bell Canada, Symbios Logic, IBM, Denny's, Subway and others.

Throughout this life Mr. Ray has been an avid reader, reading books on diverse topics involving philosophy, religion, physics, psychology and Buddhism. In 2000, he incorporated JRI and began offering workshops, seminars and retreats based on his own developing practical philosophy and material. In 1999 he published his first book, *THE SCIENCE OF SUCCESS*, followed in 2003 by *PRACTICAL SPIRITUALITY*. The events and books have focused on helping people achieve harmony among the various facets of life – financial, relational, mental, physical and spiritual. Most recently, Mr. Ray authored *HARMONIC WEALTH*, a book that summarizes his approach to these topics and reached the *New York Times* bestseller list.

B. JRI Programs and Philosophy

Like all of us, Mr. Ray has experienced the numerous ups and downs of life, from business failures and successes to a life-threatening motorcycle accident, as well as a divorce at an early age. He has managed to synthesize these experiences into a practical approach to personal growth. He has tried to share these experiences with his clients so they can address similar issues in their own lives.

The goal of the JRI philosophy is personal transformation. Mr. Ray repeatedly celebrates life during his programs and challenges people to start living the life they want right now. Mr. Ray stresses a practical approach for figuring out what you want and how to get it. People deal with concrete life challenges, such as losing weight or growing a business. For people on a diet, Mr. Ray points out that “no amount of thinking” will turn a pizza into a salad; you have to decide not to eat the pizza and enforce that boundary. To deal with a problematic employee who is preventing your business from prospering, you need to decide whether to fire the employee or accept a less-than-successful business outcome. He recommends time management as another key to success. He encourages people to apply this practical “make your own choice and stick to it” approach to interpersonal relationships, past family trauma and other life challenges. A core teaching of the JRI philosophy is to follow your own internal guidance and not succumb to peer pressure. Mr. Ray’s most recent book repeatedly advises the reader to “take what feels right and leave the rest.” J. RAY, *HARMONIC WEALTH*, at 278 (2008).

Mr. Ray regularly travels around the country, putting on free 2-hour workshops in which he introduces his philosophy. At these workshops, JRI offers attendees the chance to sign up for a variety of weekend or week-long retreats. The Spiritual Warrior Retreat is an annual event first offered in 2003 and always held at Angel Valley. Spiritual Warrior is the most physically, mentally and emotionally challenging of the JRI events.

C. The Retreat Center

Angel Valley, owned by Michael and Almayra Hamilton, is a well-regarded Sedona-area retreat center and a Section 501(c)(3) charitable entity in good standing. It offers a

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variety of services and rustic, but comfortable, facilities. Contrary to many reports, Angel Valley is located not in a desolate wilderness or isolated desert but in a picturesque valley, with a trout stream running through the property. As you know, it is only a few miles from Arizona highway 260.

JRI chose this location from the many retreat centers in Sedona because it is reputable. It is not cheap. Angel Valley charged JRI \$1600 per participant for six nights of meals and accommodations. Angel Valley can charge these rates precisely because of its reputation and ability to deliver high-end services.

Among those services, Angel Valley offers a sweat lodge as an option for Group Retreats. See <http://angelvalley.org/assets/pdfs/group-guidelines-conditions-august-2009.pdf> (Ex. A at 2.) Since creating the Spiritual Warrior Retreat, JRI has taken advantage of this offer. The contract between Angel Valley and JRI specifically required Angel Valley to provide, as part of the 2009 Retreat package, a "Sweat Lodge able to support 75 participants prepared and available based on JRI schedule." (Ex. B at 1.) Angel Valley also provided 100 grandfather stones for the ceremony.

Angel Valley constructed this particular sweat lodge in 2008. Yavapai County records contain no building permit for the sweat lodge. We do not know whether Angel Valley was obligated to obtain such a permit or whether any other sweat lodge in Yavapai County possesses a permit.

We understand that Angel Valley employed a local man of Native American background to build the sweat lodge. The evidence would show that he constructed the lodge in accordance with his traditions and specified the type of materials to be used. The wooden frame was made out of bent branches and saplings. Two employees of Angel Valley at the time, Ted and Debbie Mercer, and another man named Brian Hitchcock performed the actual construction work and obtained the blankets and plastic tarps used as coverings.

JRI used the sweat lodge at its 2008 Spiritual Warrior Retreat. In the intervening year, approximately eight other groups used the same sweat lodge. None of these prior sweat lodge events resulted in serious incident.

When the sweat lodge was not in use, the frame remained on site while the coverings were kept in a storage building at Angel Valley. We do not know the exact location of this building but believe that it may provide information about whether there were any foreign substances on the tarps or blankets used during the ceremony.

On Saturday, October 10, 2009, the Hamiltons, the Mercers and an Angel Valley staff member dismantled the sweat lodge. We understand that they burned the wooden frame, took the plastic tarps and blankets to a landfill, and buried the "grandfather" stones. Despite our efforts, neither the Hamiltons nor the Mercers will speak to us or to any JRI representatives about this destruction.

D. Mr. Ray Properly Conducted And Implemented Safeguards For The Sweat Lodge Ceremony

A sweat lodge ceremony consists of only a few items: a frame, coverings, heated rocks, water, participants and a leader. The lodge is essentially blankets and tarps thrown over a wooden frame. The sides are not staked down. The leader pours water onto the heated rocks, the steam heats the covered frame, and the participants experience the intense heat. Such ceremonies occur throughout this country and many others with few variations. Mr. Ray conducted the Retreat sweat lodge as he had done many others and with precautions that were consistent with or in excess of those taken in many other sweat lodges.

1. Mr. Ray Did Not Prevent Anyone From Leaving The Sweat Lodge

The sweat lodge began with a total of 55 people inside: 47 participants, five JRI employees or subcontractors⁴, and three volunteers.⁵ Mr. Ray assigned the volunteers to sit at the northern, western and eastern points of the sweat lodge; he sat at the southern point. Participants entered in a line and sat in two rows around the stone pit. The high temperature in Sedona that day was 67 degrees.

At the beginning of each round, Mr. Ray called for hot stones, known as "grandfathers," to be brought in. Ted Mercer heated the stones outside the sweat lodge, then delivered them to the door, where a volunteer moved them into the stone pit. Mr. Ray then said a few words and poured water over the stones to create steam. Mr. Ray led the group in chants and prayer. Partway into each round, participants shouted out their intentions, e.g., "I will be a better father," or "I will succeed at work," or "I will leave my past behind." Mr. Ray concluded with the statement, "So be it," which was repeated by the participants. After that, participants sat or lay quietly for a few minutes to meditate on their intentions. At the end of each round, the flap was opened for a few minutes before the next round begins. The sweat lodge ran for eight rounds, lasting about 10-15 minutes each.

People could and did leave the sweat lodge between rounds. At least 16 people came out at various points before the end of the ceremony; of these, approximately 5 went back inside. Participants who came out between rounds were washed down with water to cool them off, encouraged to sit or lie on the tarp, and given fluids, electrolytes, and fruit. The decision whether or not to re-enter was left entirely up to them.

⁴ Mr. Ray, Taylor Butler, Megan Fredrickson, Josh Fredrickson, and Michael Barber.

⁵ There were a total of seven volunteers at the Retreat, known as the "Dream Team," who assisted with the various events and exercises. Three volunteers were inside the lodge and four volunteers were outside the lodge. There were another two additional JRI personnel outside the lodge.

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At least one participant, John Ebert, left during the fourth round by pulling up the side of the tent and crawling out. The construction of the tent did not prevent him from leaving – the blankets and tarps could be pulled off the frame with little difficulty. After sitting out a few rounds and having water and juice, he went back in.

Participants compare the sweat lodge to a marathon, with people encouraging one another and checking on each other. One participant recalls that Mr. Ray acted like a coach, telling people “come on you can do it, you are better than this.” Another compares Mr. Ray’s role to that of a personal trainer, who always asked for “one more rep” – one more repetition.

The evidence would show that Mr. Ray did not physically prevent anyone from leaving. Nor was there any obstruction of the tent flap or anyone standing in front of it to prevent exit. According to press accounts, even Beverly Bunn, now a vocal critic of JRI, stated that “No one was prevented from trying to leave.” See Transcript, NBC Today Show, Oct. 23, 2009, 2009 WLNR 21076010 (Ex. C at 2.)

2. Mr. Ray And JRI Implemented Appropriate Safeguards For The Sweat Lodge

Of the six prior sweat lodges offered by JRI since 2003, only one participant received outside professional medical care. In 2005, after the sweat lodge ceremony ended, one man became combative. Thirty people had participated in that sweat lodge. It was held at night and ran for 12 rounds. Mr. Ray told participants that they had only one more round to go, then at the last minute, held one more round. Some participants complained and, when the ceremony was over, people left in disarray. A man named Daniel Pfankuch came out swinging his arms and cursing. Paramedics responded and administered oxygen. He was hospitalized that night and returned to the Spiritual Warrior Retreat the next day.

After the 2005 incident, JRI took a series of steps to ensure participants’ safety, including:

- Shortening the number of rounds from 12 to 8, and adhering to the statement that the “last round” really is the last round;
- Moving the sweat lodge to daylight hours to increase visibility;
- Setting up a canopy for shade outside the sweat lodge to prevent further dehydration;
- Putting a large tarp on the ground outside for participants to sit or lie down on;
- Having buckets and hoses ready to cool people down;

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- Setting up a recovery station stocked with water for drinking, electrolyte fluids, towels, lemons, oranges and watermelon;
- Hiring an event coordinator trained in first aid and CPR;
- Paying for its employees to be trained in CPR and keeping that training current;
- Stationing people, including those trained in CPR as described above, outside to help those who exited between rounds and at the end of the event. In 2009, there were two JRI personnel and 4 volunteers stationed outside the sweat lodge; and
- In 2009, JRI specifically accepted an additional volunteer, Lisa Rondan, to help at the Retreat because she was a registered nurse. JRI stationed her outside the sweat lodge as an additional safety precaution. Ms. Rondan not only was a medical professional but also had experience in sweat lodges, having attended a Spiritual Warrior Retreat in 2008.

Over the course of this year's Retreat, Mr. Ray took additional precautions, repeatedly telling people to "hydrate, hydrate, hydrate" and to take a daily teaspoon of sea salt to avoid the sodium depletion often associated with sweating and passing out written reminders to do the same. (Ex. D at 2; Ex. E.) The evidence would show that the admonishment to hydrate was a "mantra."

Early afternoon on Thursday, October 8, Mr. Ray explained the traditions of and specific procedures for the sweat lodge, including how to enter, where to sit, and how to exit. Among other things, Mr. Ray told participants that it would be "pitch black" inside the lodge and "hellacious hot." He reminded them to hydrate. He advised them to leave the sweat lodge between, not during, rounds, and to move in a clockwise direction towards the door. The request that participants exit between rounds and in a clockwise direction was a necessary precaution in a dark enclosed space with a pit of very hot stones in the middle of it.⁶ The evidence would show that, based on this explanation, participants understood that the sweat lodge would be hotter than anything in their prior experience.

3. Retreat Participants Made An Informed, Voluntary Decision To Enter The Sweat Lodge

Upon signing up for Spiritual Warrior, all participants were sent a packet of information that included a Release form. The Release specifically states that the Activities (a defined term in the contract) at the Retreat may include "a sweat lodge ceremony (a ceremonial sauna involving tight, enclosed spaces and intense temperatures)." (See Ex. F at 2.) By signing

⁶ A man named Lou Caci later exited between rounds but, instead of going clockwise around the pit, went straight for the door. He stumbled and burned his arm in the stone pit.

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the Release, each participant released JRI from "any claim . . . on account of injury to the undersigned's person (whether physical, emotional, psychological or otherwise) or property or resulting in death." (*Id.*) Each participant also acknowledged:

"I understand that (1) there are inherent risks in the Activities; (2) people may have been seriously injured by participating in the Activities; and (3) if I voluntarily choose to participate in the Activities, there is a risk that I may receive injuries requiring medical attention. I fully understand and acknowledge that there is no requirement whatsoever that I participate in the Activities. If I do choose to participate in any of the Activities, I affirm that I have not been coerced or persuaded in any way to do so and I assume full responsibility for and risk of any injury sustained in connection with the Activities, whether caused by the negligence of the Releasees or otherwise." (*Id.*)⁷

The sweat lodge event was completely voluntary. One of the participants that week, a woman named Elsa Hafsted, elected to skip the sweat lodge entirely.⁸

⁷ The release form required by Angel Valley similarly required each participant to give up claims for injury "from all acts of negligence arising as a result of, or otherwise in connection with or related to," their stay at Angel Valley and "to take full and complete responsibility for" their safety and welfare. (Ex. G.)

⁸ You also have asked us about the suicide of Colleen Conaway at the Horton Plaza Mall in downtown San Diego on July 25, 2009. Ms. Conaway had gone to the Mall as part of a 2-1/2 hour exercise in which participants were challenged to go to three affluent areas, including a high-end mall, and obtain a meal, water, and the use of a restroom without any money and wearing clothes purchased at local Goodwill stores. This exercise was entirely optional and the purpose was to provide participants with an opportunity to test their resourcefulness. Ultimately, as in other years, some went to homeless shelters, some participants applied for and got jobs, some even used the time to get haircuts, and others went back to their hotel rooms. Each participant was assigned a buddy and given an emergency phone number to call. JRI personnel, wearing bright blue t-shirts, were assigned to each location to provide any necessary support. Back-up drivers were assigned to each site in the event anyone wanted or needed to leave early or returned late to the scheduled pick-up point. At the end of the event, participants boarded buses and handed in their name tags to be counted. When Ms. Conaway was not among them, JRI personnel attempted to reach her by telephone. When she did not appear after the next exercise, JRI contacted her hotel, the number listed on her signed release form, and police. We are not aware of any evidence that Mr. Ray or JRI contributed to or could have prevented Ms. Conaway's tragic suicide or that they were on notice of any psychological or emotional problems that Ms. Conaway was facing.

4. Participants At The Retreat Were Looking For A Challenge And Were Not Acting Under Any Form Of Compulsion

Some media reports have suggested that Mr. Ray exercised some sort of "mind control" over the participants, played "God," told them they were going to die, required participants to fast before entering the sweat lodge, and limited their food intake and hours for sleeping over the week. These reports are grossly inaccurate.

Mr. Ray is not a guru and the people who come to JRI events are not cult members. They do not meet as an ongoing group or collective; they do not live communally or on an isolated property; they do not dress in a particular way or engage in ongoing rituals or worship. Mr. Ray asks people *not* to follow him but to find what works for them, as his most recent book, *HARMONIC WEALTH*, makes clear: "I don't want you to follow. I want you to explore. My aim is to teach you what I believe and what's worked for me, and most of all to encourage you to accelerate your own understanding and growth. . . . But in keeping with what I've always advised, take what feels right to you and leave the rest." J. RAY, *HARMONIC WEALTH*, at 278.

JRI offers approximately 60 events per year. Some are multi-day, some last only hours. The events are attended by a diverse and constantly changing group of people. The only common ground among JRI attendees is that they tend to be entrepreneurial and looking for practical ways to make their lives more successful.

This year's Spiritual Warrior group – most of whom had never met each other before – was no different. The group included a travel agent, a doctor with a family practice, a woman with a bachelor's degree in engineering, a former Wall Street trader, an independent filmmaker, a real estate agent, an Air Force reservist, and a financial analyst. Some of these educated, successful people had previously attended numerous JRI events; some had only been to an introductory weekend.

Spiritual Warrior challenges participants to push past personal barriers and limiting beliefs and make permanent life changes. The various exercises at Spiritual Warrior are all built around a unifying *metaphor*: a person's old self is conquered and he or she is reborn as a new person, free of limitations that prevented a successful life. As explained below, many of the Retreat events that the media has reported as some form of lurid or cult-like activity were simply examples of this paradigm.

a. The "Buzz Cut"

As part of the "cult" theory floated by the press, it has been suggested that Mr. Ray required everyone to shave their heads. Any such suggestion is wrong. The "buzz cut" was offered during the first 30 minutes that the Retreat group spent together, shortly before dinner on

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Saturday, October 3. Only preternaturally powerful skills at "brainwashing" would have permitted Mr. Ray to have manipulated minds that quickly in order to compel obedience. He has no such power. The "buzz cut" was one of many opportunities for participants to see themselves in a new way. The evidence would show that the "buzz cut" was an entirely voluntary event; approximately half of the group chose to participate.

b. The Samurai Game

Much has been made of the fact that Mr. Ray purportedly played "God" at one point during the Retreat. He played this role exactly once, on Tuesday afternoon, when participants played the Samurai Game. But this was no cult practice. The Samurai Game is based on a corporate exercise that Mr. Ray learned while working for AT&T. The exercise is intended to demonstrate that people are responsible for their actions.

The Samurai game focuses on the concept of acting with integrity. As with many corporate team-building exercises, the rules are intricate and somewhat arbitrary. Participants divided into two teams. Each team had a domio, a priest who can talk to "God," a ninja, a sentry and other assigned characters. Mr. Ray played "God" merely by acting as the proctor for the exercise by answering questions about rules. At one point during the game, participants watched a clip from *The Last Samurai*, starring Tom Cruise.

The Samurai Game culminated in various "battles" – using the term loosely – between individual team opponents. For example, the "battles" included a contest to see who could spin around ten times with a pillow on his or her head, and who could carry an egg on a spoon to a chair and back first. Those who "died" in battle, e.g., by dropping their pillows or eggs, were escorted by volunteers dressed as "Angels of Death" to the "graveyard," which was a cordoned-off section of the Pavilion.

Although the press has chosen to take the metaphor of the Samurai Game literally, the evidence would show that the Samurai Game was just that – a very theatrical game, and the kind of team-building exercise that might be played at a corporate or law firm retreat.

c. The Vision Quest

Press reports suggesting that participants went directly into the sweat lodge without eating or drinking are false. Participants did go on a 36-hour "Vision Quest" beginning late Tuesday night, after dinner, and returning at sunrise on Thursday morning in time for breakfast. The purpose of the Vision Quest was to provide time alone in a natural environment for participants to form and meditate on their new intentions and goals. Participants were taken to individual locations on the retreat property. These sites, and the pathways and maps for them, were identified by Angel Valley prior to JRI's arrival. All were within ½ to ¾ of a mile from Angel Valley's main lodge. Although this event occurred in the outdoors, this was not the wilderness.

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Participants did not eat or drink anything during the Vision Quest, but did bring warm clothing and a pad or sleeping bag. The high temperature in Sedona during the Vision Quest was 63 degrees; the low was 41. (Ex. H.) The evidence would show that participants felt safe and knew that they could get help if the need arose.

Participation in the Vision Quest was entirely voluntary. Liz Neuman, one of the decedents, did not participate in the Vision Quest at all. The evidence would show that many participants found it to be a profound experience.

Upon returning from the Vision Quest, participants ate breakfast and were again encouraged to hydrate. (Ex. E.)

d. Meals and Sleeping

Except for the day of the Vision Quest, participants were given three meals per day. Meals were served buffet style and, in accordance with the food provided by Angel Valley, vegetarian. Participants were not limited to the quantities they could consume. Snacks were available all day in the Crystal Hall Meeting Room. Mr. Ray ate the same food as everyone else.

Press reports have also suggested that participants were sleep-deprived. Again, these reports are not true. The evidence would show that Saturday evening's events ended at approximately 9:00 p.m.; Sunday and Monday, the events ended at around midnight. On Tuesday and Wednesday nights, participants were alone on their Vision Quests. It is reasonable to assume that most people spent some of that time sleeping.

* * * * *

In sum, the sweat lodge was a voluntary event during which people could and did come and go. The intense nature of the sweat lodge was disclosed beforehand, and people were encouraged to hydrate. The JRI team members, including a registered nurse, were available at all times to help those who needed to cool off. Mr. Ray did not force anyone to participate, prevent anyone from leaving or "brainwash" Retreat participants before the sweat lodge event. There is no basis whatsoever for bringing criminal charges based on his actions before or during the sweat lodge.

E. Mr. Ray And The JRI Team Took Immediate Action As Soon As They Realized That An Emergency Situation Had Arisen

The evidence would show that Mr. Ray and numerous others who sat through the sweat lodge had no idea of the seriousness of the problems suffered by some of the participants until the ceremony was over. We understand that it has been suggested that Mr. Ray and/or JRI personnel purportedly ignored requests for help. This is untrue. Had Mr. Ray, JRI personnel or volunteers heard or understood there to be an urgent call for help, they immediately would have stopped the ceremony. The JRI team and the registered nurse stationed outside could hear what

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was going on and were available to assist if they had known of a problem. Unfortunately, no one knew that there was an emergency situation until it was too late.

Upon realizing that several people needed help when the sweat lodge ended, the team responded. 911 was called. Lisa Rondan, the nurse, went directly to help Kirby Brown and James Shore. Marta Reis helped perform CPR on Mr. Shore. Greg Hartle assisted Sydney Spencer. He later relieved Megan Fredrickson from holding an IV for paramedics. Others administered fluids and cooled people down. JRI personnel provided paramedics with names and other available information about those taken to the hospital. Three JRI personnel drove to the hospital in Cottonwood in order to be with participants taken there by paramedics.

Although press reports have accused Mr. Ray of leaving the scene and returning to California, these reports are not true. The evidence would show that Mr. Ray comforted the victims and assisted in whatever way he could. At one point during the night, he went to his room to change out of his sweat-soaked clothes. With that exception, the evidence would show that he was at the site, speaking to his team and to participants, until he was separated from everyone and detained by Yavapai County Sheriff's Detectives. Witnesses recall hearing that he made numerous requests to be allowed to meet with the participants and talk to them about what happened.

Given his detention by Sheriff's officials, Mr. Ray asked Greg Hartle to speak to the participants on his behalf. Mr. Hartle met with the participants in the dining hall and provided updates on what was happening as the information became available. He also told them that Mr. Ray wanted to be there with them but could not because the deputies had detained him.

III. THE LAW DOES NOT SUPPORT CHARGES OF NEGLIGENT HOMICIDE IN THIS CASE.

We understand that your office is evaluating whether the tragic deaths associated with the Retreat were criminally negligent homicides. They were not. We provide the following analysis and demonstrate that any such charges arising out of this matter would be unprecedented and would stretch the existing case law beyond recognition.

Negligent homicide occurs "where a person fails to perceive a substantial and unjustifiable risk" that his conduct will cause another's death. *State v. Nieto*, 186 Ariz. 449, 460, 924 P.2d 453, 456 (Ariz. Ct. App. 1996); *see* Ariz. Rev. Stat. § 13-105(10)(d); Ariz. Rev. Stat. § 13-1102A. "The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation." Ariz. Rev. Stat. § 13-105(d).

Ordinary negligence, such as might suffice for a civil lawsuit, cannot support a charge of negligent homicide. *In re William G.*, 192 Ariz. 208, 213 n. 1, 963 P.2d 287 (Ariz. Ct. App. 1997); *People v. Penny*, 44 Cal. 2d 861, 285 P.2d 926 (Cal. 1955); *People v. Neff*, 117 Cal.

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App. 2d 772, 784 (Cal. Ct. App. 1953) (reversing manslaughter conviction of hotel manager for deaths of two guests due to carbon monoxide poisoning caused by fumes from gas heater, where trial court failed to instruct jury on difference between ordinary negligence, criminal negligence, and reckless conduct).

In sum, to prove negligent homicide, the state must prove either that (1) a sweat lodge itself creates a "substantial and unjustifiable risk of death" that Mr. Ray, in a gross deviation from the standard of care, failed to perceive; or (2) that Mr. Ray operated this sweat lodge in a manner that created such a risk and then was grossly unreasonable in failing to perceive that this risk existed. Neither theory can be proven here.

A. Operating A Sweat Lodge Does Not Create A Substantial And Unjustifiable Risk of Death

The operation of a sweat lodge itself does not constitute or create an inherent risk of death. In this country, sweat lodges have expanded beyond their Native American tradition. See *Werner v. McCotter*, 49 F.3d 1476, 1480 (10th Cir. 1995), *impliedly overruled on other grounds*, *City of Boerne v. Flores*, 521 U.S. 507 (1997) (taking judicial notice of "the central and fundamental role played by the Sacred Sweat Lodge in many Native American religions"). A population ranging from business professionals to high school students now attends retreats involving sweat lodges. Sweat lodges are offered as a form of spa or "getaway" relaxation treatments. See, e.g., www.chicagosweatlodge.com/index-5.html (offering "[s]weat lodge sauna ovens" and detailing use of sweat lodges by "[c]ultures throughout history"). During the pendency of this matter, I – and most likely everyone at this firm – received an email from www.rundown.com (a site featuring restaurants, movies and other local events and activities) offering Los Angeles readers "Mayan therapy in Mexico" consisting of a "temazcal," the Spanish word for sweat lodge.

As with any human endeavor, a sweat lodge carries some risk of death or serious injury. This is not unique to sweat lodges. For example, deaths during marathons are unusual, but in the recent Detroit Marathon on October 18, 2009, three participants died. We are unaware of any criminal investigation arising out of this event. The U.S. National Highway Traffic Safety Administration reported that in 2007, 698 bicyclists were killed in traffic accidents. See www-nrd.nhtsa.dot.gov/Pubs/810986.pdf. In 2004, over 2400 people were hospitalized due to head injuries from horseback riding. See www.cpsc.gov/CPSCPUB/PREREL/prhtml06/06122.html. Like these other activities, sweat lodges would not have lasted through the centuries or be entering the mainstream of American culture if death or serious injury was anything more than a rare event.

We are aware of five other sweat lodge deaths in the last 17 years – two in Northern California in 1992, one in Texas in 1993, one in the United Kingdom, and one in Australia. Not one was criminally prosecuted. See, e.g., *Death in Sweat Lodge Analyzed*, Dallas Morning News, Sept. 5, 1993 (authorities ruled sweat lodge death due to heatstroke accidental, noting that victim chose to enter the structure voluntarily and "unfortunately, she tried to stick it

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out"); *Sweated to Death in a Teepee*, Scottish Daily Record & Sunday Mail Ltd., Nov. 22, 1996 (death of 43-year-old London scientist from hyperthermia after participating in 90-minute sweat lodge ruled "accidental" at inquest). (Copies of these articles are attached as Exhibits I and J.) The coroner who examined the Australian victim recommended against criminal charges even though the sweat lodge organizers waited at least three hours before summoning an ambulance and despite a push from the victim's partner for prosecution. *Partner Wants Police Action After 'New Age' Death Finding*, Australian News Limited, June 9, 2007. (Ex. K.)

In fact, the only cases involving sweat lodges of which we are aware were brought by prisoners petitioning correctional authorities to be allowed to participate in the sweat lodge tradition, *see, e.g., Allen v. Toombs*, 827 F.2d 563 (9th Cir. 1987), or arguing that allowing some groups to hold sweat lodges in prison but prohibiting other religious practices constituted a denial of equal protection, *see, e.g., Stavensjord v. Corrections Corp. of America*, No. CV 09-0354, 2009 WL 3527437 (D. Ariz. Oct. 23, 2009). We are unaware of any case finding that sweat lodges in this, or any other context, are inherently dangerous activities.

The operation of a sweat lodge does not constitute the manifestly unsafe or illegal conduct that typically gives rise to charges of negligent homicide (formerly known in Arizona as involuntary manslaughter). These cases involve conduct, such as drunk driving or hunting accidents, that our society has determined cannot be tolerated and that clearly justifies criminal prosecution, even if the defendant did not possess the level of intent required for a murder or voluntary manslaughter conviction. Examples of cases illustrating this point are set forth below.

Drunk Driving and Vehicular Manslaughter Cases. The classic negligent homicide case arises when a defendant has chosen to drink and drive and ended up killing someone. *See, e.g., State v. Arrington*, No. 2 CA-CR 2008-0030, 2008 WL 5051796 (Ariz. Ct. App. Nov. 26, 2008) (defendant who ran over a bicyclist convicted of negligent homicide and two alcohol-related driving offenses); *State v. Blanton*, 173 Ariz. 517, 844 P.2d 1167 (Ariz. Ct. App. 1992) (affirming sentence imposed in negligent homicide case against defendant who, driving while drunk, had accident that killed his passenger); *State v. Gentry*, 123 Ariz. 135, 598 P.2d 113 (Ariz. Ct. App. 1979) (vehicular manslaughter charges brought against defendant, who driving under the influence, ran stop sign and collided with taxi, killing passenger and driver). An inherently unsafe driving practice, such as street racing, similarly justifies such charges. *See State v. Melcher*, 15 Ariz. App. 157, 161-162, 487 P. 2d 3 (Ariz. Ct. App. 1971) (evidence supported conviction for vehicular manslaughter where defendant was racing with second automobile, second automobile collided with third automobile, and driver of second automobile and occupants of third automobile were killed).

Fighting With Knives And Firearms. Defendants who escalate arguments or fistfights by employing dangerous weapons also face criminal negligence charges when someone gets killed. *See, e.g., State v. Nunez*, 167 Ariz. 272, 806 P.2d 861 (Ariz. 1991) (evidence supported conviction for negligent homicide where defendant, after verbal altercation with victim outside Tucson bar, went back inside bar, borrowed knife, returned to scene and stabbed victim); *State v. Olsen*, 157 Ariz. 603, 760 P.2d 603 (Ariz. Ct. App. 1988) (negligent homicide

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charges in shooting death that occurred when appellant fired .38 caliber revolver at tires of automobile of two men leaving parking lot after bar fight and hit one of the men by mistake); *State v. DeGraw*, 26 Ariz. App. 595, 550 P.2d 641 (Ariz. Ct. App. 1976) (evidence sufficiently supported involuntary manslaughter conviction where defendant shot wife while allegedly cleaning gun, when powder burns showed that muzzle was very close to victim's head).

Hunting Accidents. Hunting accidents that occur when the defendant accidentally kills someone, either while hunting in violation of state law or by shooting in a criminally negligent fashion, have also led to negligent homicide charges. See, e.g., *State v. Puryear*, 121 Ariz. 359, 590 P.2d 475 (Ariz. Ct. App. 1979) (appellant who shot geese decoys from road with rifle instead of shotgun committed two unlawful acts and was liable for involuntary manslaughter for resulting death of man near decoys); see generally Annot., 23 A.L.R.2d 1401 (criminal responsibility for injury or death resulting from hunting accident).

Unlike the illegal and unsafe behaviors described above, the operation of a sweat lodge is not *inherently* a proper subject for criminal prosecution. Drivers and passengers killed by colliding with drunk drivers have no choice and no chance. People hunting safely do not choose to be in an environment with a negligent hunter; they are simply at the receiving end of the bullet. Offering people a chance to participate in a sweat lodge – an event steeped in the traditions of many cultures over thousands of years and now a mainstream trend – does not by any stretch rise to the level of conduct that would justify unprecedented criminal charges.

B. Mr. Ray Did Not Create, And Then Fail To Perceive, A Substantial And Unjustified Risk That The Sweat Lodge Could Lead To Death

Because sweat lodges are not inherently unsafe, negligent homicide charges would require proof of particular conduct by Mr. Ray that created a “substantial and unjustifiable risk” of death, as well as proof beyond a reasonable doubt that his failure to perceive this risk constituted a “gross deviation” from a reasonable person’s standard of care. Ariz. Rev. Stat. § 13-105(10)(d); Ariz. Rev. Stat. § 13-1102A. A review of what Mr. Ray did – and did not – do shows no basis for criminal prosecution.

1. Mr. Ray And JRI Did Not Build The Sweat Lodge

Mr. Ray and JRI did not build the sweat lodge. They did not choose to cover it with blankets and plastic tarps. They had no responsibility for obtaining any necessary building permit for the sweat lodge or for maintaining it after it was built. The decision to place – or not to place – a temperature gauge or thermometer in the sweat lodge was made by Angel Valley. Mr. Ray relied on Angel Valley, as the property owner, to provide a safe sweat lodge under the Retreat contract. Under settled law, this reliance was entirely proper.

In *People v. Neff, supra*, the manager of a hotel was convicted of involuntary manslaughter in the deaths of two hotel guests due to carbon monoxide poisoning from fumes emitted by a defectively designed and improperly functioning gas heater in the hotel room.

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Reversing the conviction, the court held that the manager could not be charged with the duty to install a new heater or to repair the old one, where he was under no contract to do so. The court further held that the manager had not committed an unlawful act that would support involuntary manslaughter charges by failing to comply with a state statute requiring approval of gas-burning appliances by a nationally recognized testing agency, and that he could not be charged with knowledge of the heater problem simply because he was the manager. 117 Cal. App. 2d at 771-772.

The manager in *Neff* relied on the owner of the property and the lessee to replace or repair the hotel's heaters. Mr. Ray similarly relied on the Angel Valley owners, as well as the couple that re-installed the sweat lodge coverings at Retreat, to create and maintain a safe structure. By offering the sweat lodge as an option for Group Retreats, Angel Valley as the landowner and builder committed itself to do exactly that. *See Markowitz v. Arizona Parks Board*, 146 Ariz. 352, 355, 706 P.2d 364, 367 (Ariz. 1985) (quoting *Tribe v. Shell Oil Co.*, 133 Ariz. 517, 519, 652 P.2d 1040, 1042 (Ariz. 1982) ("a possessor of land 'is under an affirmative duty' to use reasonable care to make the premises safe for invitees"); W. KEETON, PROSSER AND KEETON ON THE LAW OF TORTS, § 61, at 424 (5th ed. 1984) (invitee on private land has justifiable "expectation that the place has been prepared and made safe for the visit," in part due to actual or possible pecuniary benefit to landowner). A landowner cannot escape this obligation by delegating the duty to maintain the property to a third party or independent contractor. *Jules v. Embassy Properties, Inc.*, 905 P.2d 13 (Colo. Ct. App. 1995); Restatement (Third) of Torts § 51(b) & comment (Tent. Draft No. 6, 2009) (land possessor owes duty of reasonable care with respect to "artificial conditions" on premises, included "those that the possessor has constructed or had constructed by an agent").

Just like any retreat or hotel commits to exercising reasonable care with respect to whatever facilities are offered – be it spa treatments or rock climbing walls – Angel Valley was required to provide a safe sweat lodge. The law places no obligation on a corporate event planner booking such a retreat center or hotel to investigate the spa facilities or test the rock wall. Under the principles governing ordinary negligence, Mr. Ray could not be held liable for any failure of Angel Valley to meet its obligations, let alone charged with negligent homicide due to a design defect in the sweat lodge or a failure to properly store the coverings or make necessary repairs. *Neff, supra*.

2. Mr. Ray Did Not Require Anyone To Enter Or Stay In The Sweat Lodge

The sweat lodge was an optional event. JRI provided a written release form telling participants in detail of the risks involved, and Mr. Ray informed them in detail of what they could expect on the day of the event.

Once the sweat lodge was underway, Mr. Ray conducted the ceremony. He asked for stones to be brought in, he poured water over the stones, and he led prayers and statements of intention. That is what happens in sweat lodges.

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Mr. Ray did not force people to stay in the lodge. Those who chose to participate could and did choose to leave, both between and during rounds. Mr. Ray did not block the door. He encouraged people to stick it out for the entire round, but at least one man ignored him, just like others during the Retreat passed on the buzz cut, declined to go on the Vision Quest, and skipped the sweat lodge altogether. The evidence simply does not support a depiction of Mr. Ray as a cult leader forcing people to engage in dangerous and possibly fatal activities.

Although Mr. Ray and JRI deeply regret what has occurred, the fact of the matter is that no one prevented these educated, tough people from simply walking out or lifting up the side of the tent and crawling out between, or during, rounds. It was not unreasonable, and certainly not criminally negligent, to expect people to know their own limits and to take care of themselves. *See State v. Shumway*, 137 Ariz. 585, 588, 672 P.2d 929 (Ariz. 1983) (in prosecution for negligent homicide, "the trier of fact may . . . consider the decedent's conduct when determining whether the defendant's act was criminally negligent).

3. Mr. Ray And JRI Took Reasonable Precautions To Ensure Participants' Safety

Mr. Ray had no reason to believe that serious injury or death might occur as a result of the sweat lodge experience. As discussed above, sweat lodges themselves are not inherently risky, and a reasonable person would not believe that a sweat lodge presented a substantial and unjustified risk of death.

Mr. Ray's past sweat lodge experience did not provide him with any reason to believe that a substantial and unjustified risk existed this year. With one exception, JRI's prior experiences with sweat lodges required no medical treatment or hospitalization. As explained above, the behavior of that individual could reasonably have been attributed to his anger at the sweat lodge procedure and not to a medical emergency.

In any event, Mr. Ray and JRI responded to that single event by considerably shortening the number of rounds, thus decreasing the participants' exposure to heat. JRI also made the sweat lodge a day-time event. Holding the event during daylight hours ensured that JRI could better monitor the participants and that the participants could see better. JRI set up a shade canopy to shelter any potentially dehydrated participants from the desert sun. JRI provided hoses to cool people off, a tarp to rest on, and fluids with electrolytes. These safeguards paralleled the medical care recommended for the treatment of heat exhaustion. *See James S. Walker & David E. Hogan, Heat Emergencies*, in JUDITH E. TINTINALLI ET AL., TINTINALLI'S EMERGENCY MED.: A COMPREHENSIVE STUDY GUIDE, at 1239 (5th ed. 2000) (<http://www.accessmedicien.com/content.aspx?aID=604435>) ("Heat exhaustion is treated with volume and electrolyte replacement and rest"); *see also James L. Glazer, Management of Heatstroke and Heat Exhaustion*, 71 AM. FAMILY PHYSICIAN 2133, 2137 (2005) ("The initial treatment of patients with heat exhaustion involves stabilization in a cool area. . . . Oral rehydration solutions containing sodium may be used in the field to treat most cases of mild dehydration").

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One point bears emphasis. JRI stationed several people outside to be ready to step in if needed, *including a registered nurse and other medically trained personnel*. We doubt that most, if any, sweat lodges adopt such precautions. The evidence would show that, at the typical Native American sweat lodge, no outside medical personnel are present. At a minimum, implementation of these safeguards precludes charges for criminally negligent conduct.

The case of *State v. Dykes*, 114 Ariz. 592, 562 P.2d 1090 (Ariz. Ct. App. 1977), illustrates clearly why the sweat lodge tragedy is not a negligent homicide case. In *Dykes*, negligent homicide charges were brought based on the defendant's abandonment of a group of men he had taken on one of his routine trips to the desert to steal shell casings from Air Force property. While on the trip, the defendant and another man went into town to obtain more water. In town, the two went to a motel and went swimming. On their return, they learned that many members of the group had walked miles to a well of nonpotable water because of extreme thirst. The next day, temperatures reached 155 degrees. That night, the group, with the exception of the defendant, scattered when spotted by an Air Force helicopter. The defendant surrendered but did not tell authorities that others were still out in the desert until 8:00 p.m. the next night, and no search was mounted until the day after that. Five men were then discovered dead in the desert from dehydration. The court found the evidence sufficient to sustain the defendant's conviction for five counts of negligent homicide.⁹

Here, by contrast, Mr. Ray and his team took steps before, during and after the sweat lodge to protect and ensure the safety of participants. They chose a reputable place to hold the sweat lodge, told participants of the risks, repeatedly reminded them to hydrate, told them how to exit the lodge, helped them exit when necessary, and cooled off and provided water and other assistance to people who came out. When the emergency arose, they did everything they could to revive people through CPR and other means. They comforted and assisted the victims; some followed paramedics to the hospital to be with the people taken there. Mr. Ray's and JRI's operation of the sweat lodge is the opposite of the blatant disregard of human life that gave rise to the charges in *Dykes* and precludes any charges of negligent homicide here.

C. A Conclusive Determination Of The Cause Of The Deaths Has Been Severely Hampered By The Destruction Of The Crime Scene

The sweat lodge has been completely destroyed by the property owners responsible for its design, construction and maintenance. We have not been able to explore the circumstances of this destruction except to determine that it occurred at the behest of third parties, after law enforcement left the scene.

⁹ The *Dykes* court nonetheless reversed the convictions because of the prosecution's reliance on the defendant's failure to let anyone know in time that others needed to be rescued as the basis for the charges. The defendant had remained silent after receiving a *Miranda* warning as to the federal larceny charges. This structural error required reversal under *Doyle v. Ohio*, 426 U.S. 610, 617-18 (1976).

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This destruction has rendered it almost impossible for either your office or our client to look into the many environmental factors that may have contributed to the deaths. Among other things, it is now impossible for us (1) to analyze the materials used in constructing and covering the sweat lodge; (2) to analyze whether or not the rocks provided by Angel Valley contained arsenic or other toxic materials; and (3) to determine whether any structural changes were made or allowed to occur since JRI last used the sweat lodge in 2008. The destruction means that the cause of death may forever mean a mystery. It also means that it would be extraordinarily difficult for the state to prove beyond a reasonable doubt that these factors did not cause or contribute to the victims' death, and for the defense to receive a fair trial, given that critical evidence no longer exists.¹⁰

IV. CONCLUSION

We do not seek to minimize the tragedy of the sweat lodge deaths. But these deaths were not the result of criminal conduct. Mr. Ray and his team relied on Angel Valley to provide a safe environment, warned people of the risks, did not force people to participate, did not prevent them from leaving, and did everything they could to prepare for any problems and to assist when problems arose. In these circumstances, criminal charges are unwarranted.

We believe that your concerns as to additional precautions that could be taken in sweat lodges, for example, by requiring the lodges to include thermometers or an ambulance to be stationed outside, should be addressed by the legislature.¹¹ Imposing such requirements for sweat lodges through the mechanism of a criminal prosecution of Mr. Ray would circumvent the legislative process and punish Mr. Ray for not meeting an undefined and nonexistent standard of care.¹²

¹⁰ The destruction of evidence can support the dismissal of a criminal case. *See State v. Hannah*, 120 Ariz. 1, 583 P.2d 888 (Ariz. 1978) (affirming dismissal of indictment charging defendant charged with arson and fraudulent insurance claim where inadvertent destruction of evidence severely prejudiced defendant); *State v. Escalante*, 155 Ariz. 55, 734 P.2d 597 (Ariz. Ct. App. 1986) (dismissal is appropriate remedy where state permits destruction of evidence).

¹¹ Arizona law contains numerous safety measures. For example, it requires swimming pools to be enclosed, Ariz. Rev. Stat. § 36-1681; prohibits the use or sale of fireworks except by experts, *id.* § 36-1602; requires smoke detectors in hotels and motels and new residential housing in certain circumstances, *id.* §§ 36-1637, 1646; and imposes ventilation requirements for gas appliances and chimneys, *id.* § 36-1623.

¹² As discussed above, any ex post facto thermometer requirement would apply to Angel Valley, not Mr. Ray.

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We look forward to discussing these matters with you further.

Respectfully submitted,

MUNGER, TOLLES & OLSON, LLP

Brad D. Brian

Luis Li

Susan E. Nash

By Luis Li (by son)
Luis Li

*I/V Scott Barratt 10/23/09 C36 Willingham:

On 10/23/09, at approximately 0915 hours, I spoke with Scott Barratt by telephone. I audio recorded the interview and this was his first interview.

Scott told me he played full out and paid a lot of money and was going to get the most for his money.

Scott thought the Vision Quest was the vocal of the event and so he ate a light breakfast and drank some juice. It was not until the Sweat Lodge was talked about that Scott started to drink more water.

Scott recalled James Ray talking about the spiritual aspect and how to enter the sweat lodge about two hours prior to the event. Ray told them it would be something they had never experienced before and it was going to be hot, your skin will feel like it will fall off, you will be detoxifying. Very dark, the door will be opened at different times to bring in more stones. He told them that when the door opened that is when you could leave, but he recommended they play full out to get the maximum from the experience. Scott said they were told they would be hosed off when they came out to cool off and close the pours. It would be uncomfortable, they would reach an altered state of mind. Scott also mentioned that since the sweat lodge he has had some speech and hearing problems.

Scott said he went in with Kirby and another friend of hers and they crawled to about three quarters around the tent. He is not sure if he was seated next to Kirby or her friend. A man was in front of him, but Scott did not remember his name. Scott said it immediately became very uncomfortable from the heat and as the round went on they seemed terribly long.

By round 4 Scott said his body was telling him there are problems. Scott told me he was in the military and a pilot. Scott had trained to be a pilot in the military and had received training on the physiological effects to the body from hypoxia and the effects of gravity. He said he had also suffered heat exhaustion. From that he knew his body was telling him he was starting to lose consciousness. Scott was very concerned with what his body was telling him.

When round 4 ended and the door opened for round 5 the man in front of Scott crawled out and by instinct Scott crawled out behind him. At this point the heat was very intense. Scott said he was not even thinking of leaving because he intended to go through the entire event. Once outside he was hosed down and rolled around on the ground for a while. Once he realized he was outside he said he thought no I'm suppose to be inside and crawled back inside at round 6.

Scott intended to crawl back to where he was seated near Kirby, but once he got inside there was a woman lying passed out where he needed to crawl so he squatted down where he was. James Ray was telling someone to move the woman back, but the person said he could not because she was lying on his leg. Scott said he moved toward her to help move her and James Ray told him not to. James Ray said well we need to continue on. Scott then said he thought he could just crawl over and lay in front of her to shield her, but was afraid Ray would tell him not to. Scott said even with being hosed down he was still very uncomfortable. Scott said he did crawl over and straightened the woman out and pulled her back a little. Scott said he just kept thinking we need to get this over.

Once it finally ended he knew he needed to get out of there or they all were going to die. Initially no one was really moving and he went over to the woman and was tugging on her to get her out. Scott felt bad that he was having to drag her through the dirt and knew he was scratching her face. Finally Greg came over and was helping him get her to the door.

At the door Scott rolled to the side so others could come out. He looked back and saw two guys passed out in the back of the lodge. He tried to get up and go back in, but his body totally shut down on him. Scott described himself as 6'5", 230 pounds and pretty strong, but he had nothing left. Someone told him Scott don't go back in there. Jennifer hosed him off and he went into shock and was convulsing, he raised his legs up to get blood flow back to his core. He kept going in and out. Scott described the effects as being worse than any other hang over he has ever had. Scott thought he was told he drug out Linda.

At one point he heard helicopters and looked up and saw the medical helicopter and thought "I used to fly those." Then he heard people saying things like come one Sally breathe. He looked back into the tent and saw the two guys who were still inside were getting help. Scott remembers James Ray telling Dennis he needed to quiet down. Scott said he learned that Dennis had died and been resuscitated. Dennis was yelling he did not want to die.

Scott said he became very cold from being hosed down and lying in the wet mud. He then crawled over to where the fire had been and someone put a towel over him. He remembered sharing the towel with someone, but does not know who. He heard someone yell for them to bring all the blankets they could find. A while later Scott was asked if he could walk. Scott said he was still too weak. After a little longer Scott was able to get to his feet and started walking toward his tent. Scott was given a ride by someone driving a golf cart to the showers. Scott showered and then returned to his tent, he crawled into bed and fell asleep. Scott said when he woke up he remembered they were told to go to the dining hall. He got dressed and went up to the dinning hall. Scott was not sure how long he slept.

At the dinning hall he ate some toast and drank a little bit. He then returned to his tent. The next morning he was pretty screwed up still. Scott did call his brother and told him he was all right. Scott said he knew two people had died and was feeling that he was not a very good buddy because Kirby was near him and when he left he did not know of anyone in distress. Scott felt that he would not have survived if he had not left for a round and gotten cooled down. Scott said he was directly across from his original position when he returned.

Scott said the staff was totally overcome with the number of people who were having problems and many people continued to get worse even once they were outside. Scott said no one went inside to help the ones that were still inside and as he went in and out of consciousness at one point he looked and saw the tent open and those in the back were getting help.

Scott said James Ray told them to help deal with the heat they could lay down and get closer to mother earth and it would be cooler.

Scott saw that someone was lifting up the back of the lodge at the same place where he was sitting when he first went in. Ray saw it and told them to put it back down. Scott said he was astounded by how hot his air was when he would breathe out so he

found himself breathing very shallow, but he realized that was not good either. The sweat lodge was much more intense than a sauna and normally you would not spend more than 10 minutes in a sauna. Scott estimated they were in the lodge about two hours.

Scott said he assumed it would be safe and a well planned event. They have done some very astounding things and came out great. Scott knew it would push his limits.

Scott had a conversation with Elsa and asked her what she was thinking. Elsa told Scott that she knew if she went into that sweat lodge she would die. Elsa did not enter because she knew this would not be a situation she would survive. Later Elsa thanked Scott for encouraging her to follow her instincts.

Scott said his speech and mental clarity is still not back to normal. He did go in and see a Doctor who told him that he experienced a real native sweat lodge by someone who was not a "quack" and at this time he is doing all right.

Scott believed the deaths and illness were the result of way too hot for way too long. Scott, also from his training and experience, calculated that for the area and length of time being an hour and half they used up the air in the sweat lodge 4 times. ~~Air quality was very poor, steamy and moist and all the carbon dioxide that was being exhaled.~~ Scott felt anyone walking into a sauna at that temperature, a person would not stay more than 10 minutes.

Scott said James Ray is quite proud of his sweat lodge and claims it is the very best and most intense. James Ray claimed even the Natives say he has the best sweat lodge ever. Scott did say that James Ray did have the advantage of the air from the door. He does not believe Ray participated in the fast.

This was Scott's first time in a sweat lodge. Again he feels it was way too hot and way too long and he survived by going out, getting fresh air and being hosed down. He is not sure how many rounds he was out, but believes he was back for at least the last two rounds.

Detective Shonna Willingham

Tue Nov 03 08:05:12 MST 2009
Apvd C16/0394 DBW

*I/V Randall Potter by Det. Johnson #C22

On 10/24/2009 I spoke to Randall "Randy" Gordon Potter by phone. The 2hr and 12 minute interview was recorded in its entirety and later placed into evidence with this incident as Evidence Item #4.

Randy said he learned of James Ray through a friend who had been to one of the events.

Randy said he had attended the following events:

San Diego, CA	Harmonic Wealth Weekend	3 Day	12/2007
Kona, HI	Modern Magic	5 Day	4/2008
Las Vegas, NV	Quantum Leap	3 Day	9-10/2008
Lake Tahoe	Practical Mysticism	5 Day	6/2009
Sedona, AZ	Spiritual Warrior	5 Day	10/2009

Randy mentioned that during the event in Kona, Hawaii his friend broke his hand breaking a block, by using too much force, and hitting the floor after breaking the cinder block.

Randy said that approximately 14 years ago he had been in a sweat lodge in Utah. He said there were 5 people in the lodge. He said the heat was intense and they couldn't lie down because it was in a teepee shape. He said it only lasted 45 minutes to an hour.

Randy said in the Utah sweat lodge they got fresh air from the open door that allowed them to breathe normally. Randy said in contrast in this sweat lodge on the north side where he sat in the first four rounds there was no air from the open flap.

Randy said he didn't eat or drink at all for the 36hrs before Thursday. He said he ate a large breakfast. He said he drank 1 quart of water before breakfast, 1 quart of water with breakfast and another 3-4 quarts of water after breakfast.

Randy said he knew what to expect from the vision quest because he had done a similar event in Utah 14 years ago. Randy said he never got hungry or thirsty but it was very cold.

Randy said that during the briefing in the conference room James Ray told them that the person heating the rocks had done so for multiple events. He said how hot it was for the person heating the rocks. He said James asked them to tip that person. He said they all gave the guy three to five dollars as they went into the lodge.

Randy said that the guy who had heated the rocks before they entered the lodge said the fire was hotter than in any of the prior events.

Randy said he knew the sweat lodge would be intense because it was such a long event. He said James Ray told them in the meeting room "it's going to feel like you're going to

die. I assure you will not, embrace your fear of this." He said he told them when they got through it they would be stronger people.

Randy said they didn't discuss any safety procedures to be used in the event of a problem in the sweat lodge.

Randy said that James Ray had told them the sweat lodge lasted two to three hours. He said it lasted at least two and one-half hours.

Randy said James Ray also told them that even Native Americans said his sweat lodge was the most intense.

Randy said James Ray told them it would be dark and the pit was a hazard and they needed to be careful of the pit. He said he told them it would be nice for the people in the front row to recline on the knees of the people behind them.

Randy said James Ray told them in the meeting room that heat rises and the lower people were the easier it would be for them to breathe and to deal with the heat.

Randy said James Ray told them in the sweat lodge or immediately before "if you pass out you will be taken care of." He said he felt that led people to stay and allow themselves to pass out thinking they would be okay because he would take care of them.

Randy said he thought it was safe when he entered the sweat lodge because James Ray was leading the event and had done it many times before. He said he also knew a similar number of people had participated in prior sweat lodges.

Randy said he sat on the north side in the front row with Kirby behind him and James was next to him or his friend.

Randy said James Ray told Sean during the lodge that "Sean when you make it through this you will never feel like an old man again." He said Sean had made a comment earlier about being old. He said he thought James may have been trying to engage with people to make sure they were okay.

Randy said the pit was off center towards the north. He said that gave the people in the north less room and they could not as easily lay down. He said the people in the north did not get any fresh air or coolness when the door was open as the people in the south did.

Randy said when they threw water onto the rocks from the south the people on the north got hit by water and the hot steam.

Randy said there was a small packet of sandalwood that was smoking.

Randy said when he was on the north side his eyes were burning, and his muscles were tight from sitting. He said there was Skoal winter green chewing tobacco in the hanging pouches.

Randy said he felt himself losing consciousness. He said it was hard to breathe at the beginning of the rounds. Randy said he left at the end of the fourth round.

Randy said when people initially started to leave James Ray was telling them "you're more than that," and "you can do this." He said James was talking like that when he (Randy) went out.

Randy said when he left after the fourth round he felt he was being looked down on. He said James Ray asked who was leaving.

Randy said James stopped making comments like that at some point possibly after the 6th round or so.

Randy said between rounds James was asking the people who left if any of them wanted to come back in the lodge.

Randy said when Greg (James' business development manager) left he could hear James encourage Greg to come back inside the tent. He said when Greg went back in he (Randy) also went back in.

Randy said he came back in between the fifth and sixth rounds. He said he then sat on the front row in front of the flap. He said he was next to Aaron who was bringing the rocks in the lodge.

Randy said as people came back in he moved to the left into the second row and then laid down on the second row.

Randy said when he went back into the lodge at the beginning of the sixth round there were "many indications that things were not going well."

Randy said he saw Lou was crawling towards the pit on his stomach. Randy said he screamed at Lou to stop but Lou continued into the rocks burning himself. He said Lou then crawled out.

Randy said James Ray asked what had happened when Lou crawled into the rocks. He said he told James that Lou crawled into the rocks and James said they needed to get him out.

Randy said James Ray asked Bill Leversee to help the people who needed assistance.

Randy said he and Bill helped Lou inside the lodge.

Randy said there were people passing out at the beginning of the sixth round and he was assisting people who were unconscious or disoriented out of the lodge.

Randy said about 4 people had to be helped out of the tent soon after he entered before the sixth round.

Randy said at the beginning of the rounds there was light from the glow of the red hot rocks and he was able to see the participants.

Randy said at the 6th round James was the closest to the door. He said James had his legs out and was supporting himself on his elbows. He said his head was about 8-10" off the ground. He said James' view of the inside of the lodge would have been obstructed by his position.

Randy said, on the north side after the 6th round, someone pulled the tent up and stuck their face towards the opening. He said it was while the door was open on the south side. He said it was in the area on the north side where he was sitting at the beginning.

Randy said James Ray asked "what's going on?" He said after being told someone lifted the side of the tent James told them "put that down."

Randy said they didn't immediately obey the order so James or someone else repeated the command.

Randy said James Ray didn't lead chants or prayers after the first 4-5 rounds.

Randy said you could hear people hyperventilating. He said towards the end of the lodge James Ray would yell out to people that they needed to control their breathing.

Randy said while he was laying down it was difficult to notice everything going on. He said he had to focus all his energy into controlling his breathing and staying calm.

Randy said he was shocked when Lou returned to the lodge.

Randy said he stayed in until the end of the eighth round. He said there were 2 women on each side of him and they asked him to stay with them because they were scared and experiencing a loss of motor skills.

Randy said his friend Sean was passed out in the path that they needed to leave. He said he tried to wake up Sean and Sean woke up, swung at him, and then passed out again. He said Sean eventually started crawling towards the outside edge of the tent.

Randy said he only got the women five or eight feet when he realized he was going to collapse so he went on alone. Randy said when he left the lodge at the end of the eighth round, Sean, the two women, James and Kirby were all inside.

Randy said he crawled out on the tarp and he looked up at James Ray and his staff who were there standing up. He said he yelled at them "hey somebody needs to get in there and help these fucking people because they're in trouble."

Randy said in response to Randy's request James Ray looked at one of his female staffers and said "they'll be okay."

Randy said he was on the tarp in bad condition with his vision blurred and experiencing balance disruption. He said he waited about five minutes and then moved off the tarp.

Randy said James Ray was just standing around and looking at people. He said it looked like James Ray was not concerned.

Randy said he started bringing people water and talking to them.

Randy said there was one woman who was hysterical and he had to physically hold the woman for several minutes to calm her down.

Randy said he then saw James and Kirby laying there with people performing CPR on both of them. He said it seemed like they delayed calling 911 to avoid an incident.

Randy said he was helping his friend Sean, talking to him and giving him water. He said James Ray came up to him and asked him to leave.

Randy said he never saw James Ray help any of the people in distress except he saw James talk to a specific woman that had been asking for him. He said James got down on his knees because the woman was on her back.

Randy said after he walked away the first EMS units started arriving.

Randy said Kirby and James were taken out the east side of the tent after the eighth round. He said Sean was taken out the north side.

Randy said Greg threw up in the sweat lodge after going back in the lodge.

Randy said they were not questioned about any of their medications or health problems. He said he later learned that one of his prescription medications made entering the sweat lodge more dangerous.

Randy said when he first left the lodge his vision was distorted, his balance was disrupted, he was physically exhausted and he felt like he was going to die. He said he still had a pounding headache the next morning.

Randy said he didn't remember any comments about a flashlight.

Randy said he didn't remember anyone talking about a heart attack.

Randy said he thought James Ray and the staffs were delayed in their response and looking to preserve their organization. He said he thought they were negligent and should have taken different measures before and throughout. He said someone, he believed it was one of the dream team, Jennifer, that told him that she had heard conversations between James Ray's staff not to talk to law enforcement.

Randy said Jennifer also said the volunteers and James Ray had a disagreement. Because one of the volunteers had a glass of wine on the last night of the vision quest and James didn't like that choice.

Randy said he didn't leave sooner because he wanted to make it through the whole ceremony.

Randy said he never saw anyone discouraged from helping someone in distress.

Randy said he realized there was problem after Lou climbed into the rocks and he had to help people out of the lodge.

Randy said he thought the cause of the problem was the off centered pit, the door only on one side, the rounds were too long, too many rocks and too many people to manage the event.

I asked Randy what James had said of his qualifications. Randy said James Ray told them that he was a member of 4 shamanic orders. He said James told them he had spent time in Egypt, Peru and been an employee of Tony Robbins.

Randy said during the event they were doing holotropic breath work that induced an altered state of consciousness similar to LSD by changing your breathing into very rapid respirations.

NFI

Date, Time, Reporting Officer:
Detective John Johnson #6863
Fri Oct 30 16:43:14 MST 2009

Thu Nov 05 14:59:00 MST 2009
Apvd C16/0394 DBW

*I/V Julie Min 10-09-09 Surak

On 10/09/09 at the Angel Valley Retreat, I interviewed Julie Min about her experience. I asked if she arrived on 10/03/09 with most everyone else and did participate in the "vision quest".

Min stated that she was close to the door on the opposite side of James Ray. She said that one of the times that the door was open she noticed that the "lodge" was not centered over the pit where the rocks were. Min stated that she thought it was odd that the "lodge" was not centered over the pit. From what she understands, the people that were on the side closest to the pit were the ones that suffered the most. I asked about her experience and she said she stayed in the whole time. She stated that she felt nauseous and sick, but figured that was part of the experience. Min stated that by the time she came out, she was in her own world and not paying attention, until she noticed a woman next to her moaning and someone told them to turn the woman over. Min stated that she thought it was just that woman's experience and didn't touch her. She said, when they did turn her over, it was apparent she was having a seizure. She stated that she did not think anything had gone wrong until the ambulances started arriving and the helicopter.

End of interview.

Mon Nov 09 10:27:10 MST 2009
Apvd C16/0394 DBW

*I/V Potter, Randall Transcript C22

On 10/24/2009 I interviewed Randall Potter. He participated in Spiritual Warrior 2009. I later placed a digital audio recording into evidence with this incident. Refer to that for a complete record of our conversation. The below transcript was created by another person and the audio recording should be referred to for an accurate record.
Detective John Johnson #6863/C22

Det. Johnson: Do you have a few minutes to talk?

Randall: Sure

Det. Johnson: Okay. We just had a few you've already spoken preliminarily to a Detective, correct?

Randall: Yeah I don't remember what his name was but

Det. Johnson: Let's see I'm trying to find a name on my list here. Okay. Alright we just had a few follow up questions we wanted to go through with everybody there. And let me just make sure I have all your correct contact information before we get started. It's Randy Potter, 1505 Brooks Street, Walnut Creek, California, 94596?

Randall: That's correct

Det. Johnson: And then the number I called you at 707-974-0699 is your best contact number

Randall: Yeah that's the cell phone and I don't have the house phone so

Det. Johnson: Yeah I don't either. Okay I'm not sure if the other Detective you spoke to initially got your, did you give your middle name and date of birth already?

Randall: I don't think so. It's Randall is my real name, Randall Gordon Potter.

Det. Johnson: R-a-n-d-a-l-l?

Randall: Yeah

Det. Johnson: Gordon Potter and your date of birth?

Randall: [REDACTED]

Det. Johnson: Great. Okay, I think that's all I need as far as I.D. So how did you learn about James Ray?

Randall: A friend of mine, well a couple friends of mine had been to one of his events and they told me about it when I was well talking about this business deal I'd gotten myself into that I was nervous about getting involved in. And that was how I ended up going to the first event that I went to.

Det. Johnson: Okay. How many of his events or seminars have you attended? Actually you know it might be easier, I've been dealing with other people so we've just been writing down the city, the type of the event and approximate month and year.

Randall: Okay.

Det. Johnson: So like the first intro event you went to, or whatever it was

Randall: The first event was in San Diego which was the Harmonic Wealth Weekend and that was in I think 2008

Det. Johnson: Okay and that was one of those two day things?

Randall: Yeah it was a three day event I believe

Det. Johnson: Three day, okay.

Randall: Two or three yeah

Det. Johnson: Did you do one of those two hour intro events?

Randall: No I didn't. I didn't because the three guys who have been to that Harmonic Wealth Weekend had talked to me about it so

Det. Johnson: Okay so you had been referred more to that specific event

Randall: Right yeah exactly

Det. Johnson: Okay between that and the, other than that or obviously you were at this

Randall: So I left I think that was around December I'm thinking like a year and a half ago and then I went to an event that April and that was in Kona, Hawaii and from there I went to an event in Las Vegas. And an event in Tahoe in June and an event here in (Inaudible)

Det. Johnson: Okay the Kona, Hawaii, was that April of this year?

Randall: No it was April of last year

Det. Johnson: Okay. And you had been to the Harmonic Wealth before that so that was earlier in 2008?

Randall: Right, yeah

Det. Johnson: So we had the Lake Tahoe event in June. When was the Las Vegas event?

Randall: I think the way I had done it was April in Kona and like October or September or something like that in Las Vegas for (Inaudible) week somewhere in 2008. And then

Det. Johnson: Do you remember the name of the Kona thing?

Randall: What the event was called?

Det. Johnson: Yeah

Randall: It was called Modern Magick

Det. Johnson: Modern Magick?

Randall: Mmm hmm

Det. Johnson: And how long was that?

Randall: That was a five day event

Det. Johnson: Five day? And Quantum Leap was a

Randall: Three

Det. Johnson: Three day? The Lake Tahoe event, was that the Practical Mysticism?

Randall: Right yeah

Det. Johnson: And that's a five day, correct?

Randall: I think so yeah

Det. Johnson: Any others?

Randall: Pretty much done all the events he has

Det. Johnson: Okay, you didn't repeat any of them though?

Randall: I haven't repeated any of them, that Modern Magick event there's four different you know, four different topics that they cover so and that way I haven't done those but as you hit that website you can see the list of all the different numbers

Det. Johnson: Yeah now that Modern Magick event, and I know we've talked to some people that have I think that was the event where they've, the one in Hawaii where people have broken their hands

Randall: Yeah I know of a specific individual that broke his hand. I know several people that you know had minor injuries from it

Det. Johnson: Okay, you didn't have any injuries at the event you attended?

Randall: No, no it was my friend that was with me that broke his hand. He broke his hand because he went straight through concrete (Inaudible) cinder block and straight down to the concrete floor

Det. Johnson: Oh he broke his hand on the floor?

Randall: Yeah he broke it on the floor by going straight through the thing. It was Richard somebody whose 235 pounds you know (Inaudible) so long (Inaudible) and it wasn't really necessary so he went straight through the thing to the floor, that's how he did it.

Det. Johnson: A little too much power, that happens. All right any other injuries at that event?

Randall: I think there was like two or three people that were injured and I know of at least one individual that broke his hand. You know I didn't pay a whole lot of attention to it because they were all minor and everyone returned. The people who broke their hand felt they got something out of having an injury; it wasn't a big deal or whatever you know. It was uneventful.

Det. Johnson: Okay. So you'd done those four events and then you did the Spiritual Warrior out here?

Randall: Yeah. I would imagine you're questioning about people being injured and specific activities and I don't know if you've been told what all of the sort of activities were that could potentially have you be injured. You know the fire walk and the bending of rebar and breaking the arrow and breaking the board and you know walking on the tightrope you know (Inaudible) up on a ropes course. You know all of those things were activities where there's been like a possibility of being injured

Det. Johnson: Right. Yeah I had just, I know a few, we had some previous people we had talked to that had had some concerns about the Hawaii thing and breaking their hands and that's why I was asking about that.

Randall: Yeah

Det. Johnson: I know they do a lot of physical stuff at these things. Have you ever been in a sauna or a sweat lodge before?

Randall: I have yeah

Det. Johnson: In a sweat lodge in particular or just saunas?

Randall: It was a sweat lodge and I've been in a sauna quite a few times

Det. Johnson: You have too. The sweat lodge, when did you do that?

Randall: 15 years ago

Det. Johnson: Okay where was that at?

Randall: That was in Utah out in the desert

Det. Johnson: Like on a reservation?

Randall: No it was on a National Park, I don't know (Inaudible) it was like 5 of us and the guy that was doing it was half Native American and it wasn't nearly as long and I remember it being quite intense but nothing like what we went through

Det. Johnson: Would you say the temperatures were less but not as intense?

Randall: I can't really say for sure because it was so long ago but I remember it being really intense but the sweat lodge that we were in in Utah there was no possibility of laying down so the lower you were to the ground the cooler it was, the easier it was to breathe. This particular one was in a teepee, (Inaudible) there was five of us inside of it and well there wasn't enough room to lay down so you were sitting Indian style in it. But I guess if I have to think back about it I would say no it probably wasn't as hot but I Remember thinking about it when he told us what it was we were going to do and how long it was going to be, thinking back about there is no way that we did that anywhere near as long and that's why I was a little bit nervous about it going what do you mean two to three hours. I mean when we did that there it was maybe an hour, thirty five minutes or something.

Det. Johnson: So you thought about forty five to an hour the last time you had this?

Randall: Yeah

Det. Johnson: How long was the actual, this one you were at up here. How long do you think you were inside?

Randall: By my guess I'm thinking it was at least 2 1/2 hours but it was hard to say because we left the room you know and by the time I saw what time it was when I went

back to the room, estimating time was very difficult. But he had told us 2 to 3 hours and we spent quite a bit of time before we actually got into the sweat lodge you know because they had a small ceremony before. So I would think (Inaudible) 2 1/2 hours, it's just hard to say.

Det. Johnson: So you would say this was different from your other experience in the length of it, this was a higher temperature than the other one, were there any other major differences?

Randall: Absolutely it was different. I mean obviously in the number of people and it did seem like when we did the other one that there were periods of time where we got fresh air by you know having a door open, it was in the vicinity of where we were and so the fresh air would rush in for a short period of time you could breathe normally and you were just hot. But you were able to breathe for a minute. Where I was was on, I left after the fourth round and then ended up coming back in after one round had passed. Where I initially sat was on the north side, with I believe Kirby sitting directly behind me and James was you know either the person next to me when I started or the person on the other side of my friend that was there and when I left at the fourth round the two of them were you know essentially right around me. Where I was sitting was in the front row so in a lot of ways I was the closest person to the pit and there wasn't a lot of room so I couldn't lay down so I'm sitting up that whole time. So you know I've got muscles that are pretty tight and everything else from just sitting in the position that I was with my knees up and you know basically supporting my upper body and you know in the fourth round when I went to leave I was, I would have passed out I believe if I hadn't left. It was like I was nodding off and my head would fall forward and you know I'm, I could tell that you know I'm not gonna make it and I've gotta go. So I did leave, and when I came back in I sat you know right by the door and it was considerably cooler, I could lay down and you know when the door opened you got fresh air, you could breathe. And as rounds went on some people who had left came back in so I moved.

Det. Johnson: Wait, when you first came back in so you left at the end of the fourth round, you stayed outside

Randall: Right, I came back in after the fifth

Det. Johnson: Okay so you came back in after fifth and you sat on like right in front of the door in the front row or

Randall: Yeah on the south side right next to Aaron who was the guy bringing the rocks in with the pitch fork

Det. Johnson: Okay

Randall: And as another round passed I moved essentially to either the east or west I don't know which direction you know it would basically be right and west or east I don't know which one and so (Inaudible)

Det. Johnson: So when you came in you were sitting, was it on the front row or

Randall: Yeah I was sitting in the front row

Det. Johnson: Okay so you came back in, you're on the front

Randall: The very first (Inaudible) the very front row on the north side (Inaudible) basically the front row

Det. Johnson: next to Aaron

Randall: Right next to Aaron

Det. Johnson: Okay and then as people came in you moved to the left or to the right?

Randall: To the left

Det. Johnson: Okay and you stayed on the front row?

Randall: Yeah I was, it would be hard to say if it was the front row because at that point there was hardly rows left. It was just people laying down.

Det. Johnson: So as you moved, as people came back in, were you still on the front row just kind of sliding along to your left or did you move back?

Randall: Yeah I moved to I don't know which direction that would be (Inaudible) east or west. Actually I would be directly west or east whichever one it was and I was laying down at that point and so I guess you'd say I was more in the second row toward the outside of the tent

Det. Johnson: Okay

Randall: And when I came back in in the fifth round there was many indications that this thing was not going well with one of them being Lou who crawled into the pit with these hot rocks and he was crawling towards it you know on his stomach and I could see him go towards the pit and I'm screaming at him you know to stop and he goes into it and I continue yelling at him and he, he crawled out of it you know. That was one indication that this thing was you know, (Inaudible) crawl into a pit with hot rocks

Det. Johnson: Right, what was his name again?

Randall: Lou

Det. Johnson: And he's the one that sustained the burns to his hands?

Randall: Right. And you know there were then people passing out that were being drug out you know. I'd helped several people which could be part of the reason why I ended up you know moving from the door back towards where I had originally started and

Det. Johnson: You were helping people who had passed out or just people who were kind of out of it?

Randall: People who were either out of it or were (Inaudible) passed out and came back from it. I would think that people were passed out whether they stayed passed out when we started moving them (Inaudible) hard to say because it was so dark in there.

Det. Johnson: So when you came back in and this would have been at the beginning of the sixth round now, that's when he burned his hand in the fire?

Randall: I believe it was in the sixth round, yes

Det. Johnson: Had people started passing out at that point?

Randall: Yeah I think so. Basically when the round would start you know it would be, the only light would be from the rocks themselves because it's pretty much pitch black with the exception of that and at the beginning of the round you could see a little bit more than you could at the end. Because toward the end the rocks aren't red hot anymore and you can't, you know you don't get that glow coming off there so I would guess you'd say one part of the round you can see some, you can see people a little more clearly and toward the end you didn't see anything it was so black

Det. Johnson: So toward the beginning of the round, the sixth round when you first came back in it was still illuminated. You were noticing people passing out?

Randall: Yeah I think that would be a fair statement. And you could hear people hyperventilating.

Det. Johnson: Was anyone like crying out for help or anything like that, saying they were in distress?

Randall: Well it wasn't like help me or anything like that

Det. Johnson: Okay. Was there any instructions or anything being given by anyone as to how to deal with that if they were having problems?

Randall: Well at one point someone, either James Ray either at the beginning (Inaudible) the sweat lodge or when we were in there had made the comment you know if you pass out you'll be taken care of. That, I think that was part of what may have just led people to be like okay well you know I knew this was a possibility and if I get there it's fine you know. You know putting their trust in him. And you know when people

initially started to leave James was making comments to them, "you're more than that, you can do this", you know. So in some ways there would be disturbing comments to someone to leave where you know I guess if you're looking at it in the other way, you know trying to get you to push yourself.

Det. Johnson: But these are people, was he making those comments after you had come back in so we already had people who had passed out and the one guy who crawled in or was it before that?

Randall: It was before that

Det. Johnson: Did you hear him make comments like that after the guy burned himself?

Randall: He was making comments like that when I had went out and he was definitely making comments when Greg, Greg is (Inaudible) Development Manager or whatever his title is, he left and I followed him back in and I could hear the dialogue going on you know inside of the tent and you know James trying to encourage Greg to come back and you know anchor (Inaudible)

Det. Johnson: So Greg was outside the tent and Ray was talking to him from inside?

Randall: Right and he was out for a very short period of time and Greg went back in. That was when I went back in. So he was making comments to people as they would leave you know, you're more than that and you can do this you know. And when they would end a round and they were bringing rocks back, bringing rocks in he was asking you know is there anyone who wants to come back in (Inaudible). Alright, and so

Det. Johnson: So he solicited people who left because it was so hot to come back in

Randall: Right and I don't know whether you know (Inaudible) because it was too hot or they were scared by it or what you know, but yes he was asking people who had left not by name other than (Inaudible) you know to rejoin us in there.

Det. Johnson: Okay did you hear that happen after you came back in?

Randall: No I think, at some point he stopped making comments like that. He was definitely making them early on. I don't know if he was making them after the sixth round or so

Det. Johnson: Okay. So how many people did you see pass out and were carried out or had to be helped out while you were in there?

Randall: I think it was probably about four

Det. Johnson: Okay. The person who had crawled into the rocks and burned himself, were you one of the ones who helped him out or did he make it out on his own, how did that happen?

Randall: He did get some help and I think that I helped him you know a very short distance inside of there but you know one of the people that I met who was helping individuals out was (Inaudible) interviewed with me with the Detective for some reason nobody (Inaudible) spent a lot of time with (Inaudible). I can't think of his name right off

Det. Johnson: It's alright

Randall: (Inaudible) he was, this guy was 6'5" he was the professional (Inaudible) all American guy. He was (Inaudible) because he was asked to help

Det. Johnson: Who asked him to help?

Randall: James Ray had asked him to help

Det. Johnson: Okay. Do you know when he had asked him to help? Was that before they had started or

Randall: No, when the event was occurring and you know people had started to you know need help then he was asking him to help

Det. Johnson: Okay so he asked this specific guy to help as people needed it?

Randall: Right and he you know specifically call out you know every time for this individual to go out it was just at the beginning he said (Inaudible) I can't believe I can't remember his name for a second but he asked him to help and then there were other individuals that helped as well, you know me being one of them.

Det. Johnson: Okay. So after the subject who had burned his hand, do you think there were four other people who had to be helped out or four including him?

Randall: I think there was four including him that I noticed but when you were laying down it was very difficult to notice what was going on around you because (Inaudible) that you had to put all of your energy into keeping your breathing under control and I guess focusing on staying calm. At least that's what it was for me and so while I was sitting up through the first four rounds I could see everything fairly clearly, then I came back in in the sixth round I could see fairly clearly, right? And when I went back I guess to the west side or whatever it is by going left the last two rounds you know I saw even less because as I laid down you know I would put my face more toward the outside of the tent because it seemed to be cooler there. You know I'm on the ground and you know you hadn't moved around very much because it would just use energy to do that. So you know the last portion I didn't notice everything that was going on because of

that reason but you know you could hear what was going on by someone (Inaudible) or someone talking or you know

Det. Johnson: Okay, the other three people that had to be helped out, how were you aware of that? Did you hear noises, talking, what do you recall of those three?

Randall: It was while I was still sitting up and it was in part because I would hear somebody else say hey so and so needs help you know, blah, blah, blah you know he's passing out or whatever. And you know then as I would look around I would see this individual be you know moved and you know I wrote a lot of notes down so if I was to go back and look at what that was I might be able to determine who the individuals were that

Det. Johnson: Okay. And this all started happening, the other three were also after you had gone back in, correct?

Randall: Correct, yeah

Det. Johnson: Before you went in did you hear anyone talk or make assurances that the personnel conducting or building the sweat lodge had special training or expertise?

Randall: I just know the comments would lead you to believe that the you know like the individual who was putting the rocks in the fire you know that he had done this for you know multiple events and that you know they put a lot of time and energy into doing that and they all gave donations for the individual who was doing that. As we arrived at the lodge we each gave like three to five bucks and that money was then going to the individual who was you know heating the rocks and then you know tending the rocks at the entrance to hand off to Aaron to put into the pit. The comments made there would lead you to believe that that individual knew what he was doing at least in relation to the heating of the rocks.

Det. Johnson: Who made those comments?

Randall: It would have been James Ray speaking (Inaudible) you know and

Det. Johnson: And that was like in the briefing before the event started?

Randall: Right and that would have been in the room in the seminar room and I remember that (Inaudible) sweat lodge (Inaudible)

Det. Johnson: Randy

Randall: Yes?

Det. Johnson: Your cell phone cut out there?

Randall: Yeah it did, I'm driving over a (Inaudible) highway and (Inaudible)

Det. Johnson: No problem. Let's see so we're going over people talking about their training or expertise in this sweat lodge stuff and you had said that Ray had said during the briefing in that seminar room that this guy had been heating these rocks for years and done this for a bunch of events and he asked people to give this guy some gratuities I guess as they went in

Randall: Right so each person was asked to give the guy three to five bucks and you know he was explaining how hot that is for the person doing it and that they work really hard at it and that that was really the basis for us giving him this gratuity and but the comment that the individual heating the rocks had made was that he thought that the fire he had going was hotter than you know any other year that he has done

Det. Johnson: When did he make that comment?

Randall: This was before we went in to the lodge, when we were outside prepared to go in and you know right before we did this sort of ceremony where we you know we're standing around this smaller fire and threw all the notebook paper that we'd been writing on for the previous five days.

Det. Johnson: And this guy said that he thought this is the hottest he had done?

Randall: Right

Det. Johnson: Okay did anyone else, any other staff or people there make a comment about that?

Randall: No and now that I'm saying that I remember James Ray saying that (Inaudible) sort of semi direction what it was that we were doing (Inaudible) that look you haven't done a sweat lodge if you haven't done mine or something to that effect like you know mine is more intense than anyone else's that type of thing. And also talking about the prayers or the chants that were going on inside there were bringing together to all types of you know religious stuff and you know (Inaudible) specific to Native Americans or American rituals tying together stuff from different cultures (Inaudible). The comment that was really made there was sort of like this is more intense and whatnot than most people do.

Det. Johnson: Right. Did he say anything else other than about this guy who heated the rocks about who had built the lodge or was operating the lodge you know and their training expertise? Or is that about it?

Randall: I don't (Inaudible) go in to real detail about it but I know that my understanding is that it wasn't James Ray staff that prepared the lodge, it was individuals that were either contractors or were employees of the Angel Valley resort there.

Det. Johnson: Okay

Randall: And that there were individuals around that area there that certainly were not employees of James Ray or volunteers and you know from what I noticed of this preparation was that you know the people I saw constructing the tarps around the dome were not individuals that I (Inaudible) volunteers of James Ray or employees of

Det. Johnson: Okay. Did you feel prior to going into the lodge that it was safe and if so why?

Randall: I figured that it would have been just because of the individual who was leading it and his previous involvement in this type of ceremony

Det. Johnson: Just because James Ray was gonna be there leading it and he's done these before?

Randall: Right and we were informed that this is the seventh year or whatever this event has taken place and you know that I was aware that you know a similar number of people had participated in this event in the previous year and at least one of those individuals, I think Aaron was one of the people who I was speaking to about it and he had told me that he had done it the year before and you know that combined with the leader I figured it would be safe and you know there were other activities that we had done at other seminars with James Ray that you know appeared to have some element of danger in it and you know while you might be nervous about it but the ultimate outcome was always you know something you were capable of accomplishing. That makes sense if all of that combined you know had me you know willing to participate in it without fear for my safety.

Det. Johnson: Right. Let's see and you were inside. After you went back in after the fifth round, I'm sorry at the beginning of the sixth round you went back in, did you stay in until the very end?

Randall: Yes

Det. Johnson: Okay

Randall: At the end of the eighth round when the thing ended, you know two women on either side of me that essentially had asked me not to leave them there and were quite scared right and so you know I'm trying to help these two women when this thing was over and while they were there and able to communicate at least minimally their bodily function was not really there. It was sorta like all their motor skills were gone because I'm trying to help them move and you know one of these ladies that I know wants to leave; her body is almost resisting me. And my friend that I had went to this event with was passed out in the (Inaudible) out so we were instructed when the sweat ends that we were gonna enter from the south and we were gonna travel in the direction going west and we'd have to come all the way around in order to leave. Alright so if you

were sitting on the south side on the left, you still had to go all the way around in order to leave. Well my friend Sean was passed out right in the path to go out and you know I'm trying to wake him up, he does and when he wakes up he swings at me and he misses and then he sort of passes out again for a second and me and another individual are trying to move him but Sean weighs like 235 pounds. So I get him up, trying to move him which is extremely difficult because of his weight and he ultimately starts crawling towards the outside of the tent. Not in the direction to go out. You know I then try and help several other people including these two women towards the door. And I probably only get them seven or eight feet before I'm so physically exhausted that I can't do more and (Inaudible) if I don't get out. So at that point I crawl out and there were tarps outside with people hosing people down and whatnot and when I crawl out before I sort of fall down onto the tarp you know I look up at the staff or at James Ray and James Ray was standing there directly behind the tarp standing up. And you know I yell to them hey somebody needs to get in there and help these fucking people cause their in trouble you know. And his comment to one of his staff people which was a woman was like they'll be okay, (Inaudible). This is really when the activity's over and people are trying to leave. It was like you know someone needs to get the fuck in there because these people need help and his response was you know they'll be okay and at that point now I'm you know laying on the tarp you know not in the greatest condition myself. I've already been through this once so I know that I can make it through it, right? I'm physically exhausted you know. My (Inaudible) a little bit screwed up and you know the world is sorta spinning and you know if I was to stand up at that moment I would just fall over. So you know I lay there for maybe five minutes or something and when I feel a little bit better I move off of the tarp so you know other individuals coming out would have a place to go. Then I'm walking around and you know James Ray himself was sort of taking like a spectator's view of what was going on, not necessarily engaging in helping individuals.

Det. Johnson: By speculating do you mean he was just standing and looking at people or was he actively talking, doing stuff?

Randall: For the most part he was not engaging in conversation with them and he was just sort of standing on there on the sidelines if you will watching what's going on. Where it didn't seem like he was really concerned that there was really an issue immediately. And I'm, once I get up I'm sort of looking around and I was seeing how many of the people are and I'm trying to help them you know. Many people were totally disorientated, they didn't know where they were, what was going on, you know. And several individuals I tried to bring them water and repeatedly said to them you're fine, this thing's done, you made it. You know, like snap out of it, you're okay.

Det. Johnson: You survived

Randall: Right exactly and the one woman, she's you know sort of hysterical and you know not in the greatest condition and I end up hugging this woman for you know several minutes because she's just so frickin' scared that you know she doesn't know where she's at or whatnot and then after that I walk around. And you know I see James and Kirby laying there and you know people trying to give them CPR and pumping their

chest and whatnot and even at that point the staff is I think you know in my opinion probably avoiding calling for medical attention you know. Hoping that people will just you know make it out of it.

Det. Johnson: So wait, while people are doing CPR you're not aware of anyone having tried to call 911 or talking about that at that point?

Randall: I think that there was a very delayed response

Det. Johnson: Okay

Randall: And you know it was surreal. I'm standing there literally you know a foot or two away from these people you know pumping their chests and trying to get them you know to sorta snap out of it and you know hear them talking well it doesn't appear that he's breathing or you know he is breathing you know. And they were like, I think it went on for you know longer than it probably should have before the phone call was really made because the call would have been made related to those two individuals because it was clear how bad off they were just laying there, you know lifeless, not interacting at all. Not making any movement where many of the other individuals were moving so in my opinion (Inaudible) that they were, they were okay in my opinion looking at it that way. Like hey their not passed out, their not you know incoherent or whatever, their you know at least showing some sign of life you know. Where those two individuals were not and you know five feet away from them was my friend Sean. The guy I was explaining to you that was passed out that I helped him move and who had sworn at me. And you know I'm trying to help him, he's laying on his stomach five feet away from these guys you know with his legs still in the tent and he doesn't know where he's at and you know isn't really responding immediately but it's evident that he is alive and is breathing you know. And I'm over there trying to talk to him in the same way that these other people, basically saying Sean you made it buddy, you know. You're fine, the things over you know. Right on, whatever you know, trying to be positive so he'll come back to, you know. Sorta come back to this world you know cause it's, many people were so disoriented they didn't, like I say didn't even appear to know where they were or what was going on. And Sean made a comment to me and then I went okay he's gonna be okay. He says I don't even know where I am. I'm like Sean you're, you know, at the sweat lodge and it's done and you made it you know, congratulations. Like you know I'm gonna go get you some water and I went over and got him a cup with something that appeared to be a Gatorade or whatnot and some fruit. When I brought it back over and tried to get him to take it and shortly thereafter I was asked to leave that area by James himself.

Det. Johnson: Did he say why?

Randall: It seemed that he wanted people out of that area so the other people would be able to get in to tend to them and

Det. Johnson: Were you (Inaudible) toward this guy when he asked you to leave?

Randall: No it was after I was, I had already gotten there and was trying to sort of comfort him you know. And James himself at this point is still not getting down on his hands and knees or you know interacting with people you know in the way that many others were, right? In making contact with them and trying to talk to them and this type of thing.

Det. Johnson: Right when he asked you to leave, what physically, from where he was looking at you what did he see? What were you doing physically, what was Sean doing physically? I mean were you like holding a cup of water up to him, what exactly was going on?

Randall: No I had it on the ground a foot away from Sean and you know with him then that I was talking to was much more assertive than the wording that I was using. Like you know if I was talking to a woman it was a lot calmer and like hey you're okay and it's gonna be alright, you made it through it, you know that type of thing. With him it was more like Sean, Sean, you're okay man, you did it. See what I'm saying, I'm talking louder and you know being a little more forceful in the words that I'm saying. And you know maybe it was a result of him witnessing that or you know wanting people out of the area so that help could come in and you know probably five minutes after I was asked to walk away from that area is when the first help started to show up from outside

Det. Johnson: Okay like when you first saw like an ambulance or a Sheriff's Office vehicle?

Randall: Right

Det. Johnson: Okay. Did you see or hear James ask anyone else to stop or not help somebody or to leave or anything like that?

Randall: I didn't notice him say that to other individuals. Once the ambulances and fire trucks and whatnot started to show up in general the comment was made that you know if you're doing okay you know go get cleaned up and dinner is at this time and you know that essentially sort of like you know get up and go

Det. Johnson: Yeah

Randall: Which there was more than half the people were still there and then you know so twenty or thirty people maybe, maybe twenty five or whatever went off to go get cleaned up as we were instructed and you know sort of get out of the way is sort of what I thought was the (Inaudible) intent there. I remember when James said that to me thinking you know well fuck you, I might just go back over there I don't care what you say, you know? My friend's over here and there's no one seemingly helping him and you know then I'm going well you know now there's ambulances showing up and fire trucks and you know I certainly can't do for him what they can and so I might as well just get out of the way you know. And I remember thinking shit, do I really want to leave this area? And I had lost one of the flip flops that I had down there so I'm looking for that and you

know one of the staff for James Ray was like are you gonna go or what? And I was like I'm like I'm looking for this flip flop because walking on that area down there, there was all these like sticker things that if you stepped on them makes you have splinters in your foot.

Det. Johnson: You don't want to walk around Arizona barefoot

Randall: Yeah and so that's what I was doing. I ended up leaving without it and you know walked back to the cabin you know without it and then went and showered and went up to the dining area after that.

Det. Johnson: Okay.

Randall: When I went back to the cabin I'm witnessing people up there outside of the area of help that shouldn't have been.

Det. Johnson: Yeah

Randall: They needed to be down there and one of them is the individual, Lou that burned his arms and hand or whatever and then there was I can't remember what his name is but he was up there totally disoriented and he ultimately was taken to the hospital also as was another woman that I saw up there that was being taken up in a golf cart so.

Det. Johnson: So you saw someone take this one woman up in a golf cart and then she was taken to the hospital?

Randall: Yeah I don't think it was James Ray's staff though I think it was Angel Valley in a golf cart

Det. Johnson: Do you know who she was?

Randall: I think her name was like Christie or Christine or something like that

Det. Johnson: Okay did you ever, I mean so you were obviously outside the tent for a long time trying to help people walking around these different people. These women and your friend like you told me. While you were doing all that at any point did you see James Ray talk to somebody or try to make a phone call or try to come to somebody's aide? Did you see anything like that?

Randall: No I didn't. I noticed that he was asked to come over and to speak to an individual who was by name asking for him. And from what I understand from

Det. Johnson: Randy? Gotta love cell phones. So you were saying you saw somebody ask James Ray to go talk to somebody who was asking for him specifically and then we got cut off, did he go help someone or what did you see happen?

Randall: Yes he did go over there and it seemed like he got down on his knees or whatever because she was on her back or you know not standing and that was the only actual physical involvement that I saw and

Det. Johnson: Did you ever hear him talk about calling for law enforcement or an ambulance, EMS? Did you hear anyone talk about calling for the paramedics or if they've been called?

Randall: I did hear someone sort of yell out you know someone needs to get you know an ambulance down here now you know! And it wasn't, I don't think that that specific request resulted in the phone call being made.

Det. Johnson: When did you hear that yelled?

Randall: This was before I went over to James and Kirby and Sean.

Det. Johnson: Alright so it was relatively early after the eighth round. (Inaudible) after the eighth round you heard somebody yell that out they need to get an ambulance now.

Randall: It was after I had come out after I had you know laid on the tarp for a minute. I had gotten outside, I had gotten you know sort of hydrated myself. I had walked around and you know I would guess it's maybe five minutes before I think the before I went over to James and Kirby.

Det. Johnson: Okay. Alright, I want to make sure we cover everything. Alright in the days prior to the sweat lodge what did you have to eat?

Randall: Well the 36 hours before so we, the morning of that Thursday I guess it was, I think it was Thursday the week of the sweat lodge we had been out for the previous 36 hours prior to 9 AM and during that 36 hour period I didn't drink anything or have anything to eat.

Det. Johnson: Okay so you had no water whatsoever for 36 hours before the day of this?

Randall: Right and that day of the sweat lodge I drank quite a bit and I did eat a fairly large breakfast. (Inaudible) like most people were hungry at that point and it seemed like many of them (Inaudible) that morning.

Det. Johnson: Do you remember what you ate?

Randall: Most every morning there was like scrambled eggs that had like (Inaudible) or something in it and I did have that. There was some granola, I had some of that. There was some fruit that I had and orange juice and water and toast.

Det. Johnson: Do you remember like how much orange juice you had to drink?

Randall: How much what?

Det. Johnson: How much orange juice you had?

Randall: It wouldn't have been more than like a glass, probably like 8 ounces or less

Det. Johnson: Okay so you had 8 ounces of OJ. How much water did you have to drink during breakfast?

Randall: We immediately headed up back to the lodge where I was sleeping at; I immediately found my water bottle and drank probably a quart there. At breakfast I probably had another quart and in the time that we went back into the seminar room up until 2:00 I probably had 3 or 4 more quarts you know. And I had drank enough water that I went to the restroom in that ten minute interval between when we left the room and went down to the area of the sweat lodge. After that short ceremony was over, I ended up being close to the last person going into the lodge because I went over and peed in the bushes before I went in. So and I drank quite a bit of water.

Det. Johnson: Okay so you probably had somewhere between 5 and 6 quarts of water that morning and day.

Randall: Yes

Det. Johnson: Okay. Did you have any salt or anything?

Randall: I did, yes

Det. Johnson: How much?

Randall: A tablespoon or less of sea salt

Det. Johnson: Okay. Did you know what to expect for that Vision Quest where you went out in the desert?

Randall: I did because I had done that before

Det. Johnson: Okay. You had at one of his events or just on your own?

Randall: No at that same event where I had done sweat lodge you know fourteen years before. I've done sort of a Vision Quest thing like that.

Det. Johnson: Okay

Randall: And you know it was like during that Vision Quest that we did in Sedona. And they were (Inaudible) hungry and they were a little bit thirsty. You know it (Inaudible) same (Inaudible) relatively quickly and you know (Inaudible) you know in

days leading up to that. So I slept quite a bit and you know the only thing I even you know it was obviously really nice up there. (Inaudible) and all that. It was always so cold on the last night and I was down near the creek and you know even with the sleeping bag, the fleece jacket and other clothing in there on in this (Inaudible) it was cold you know. But

Det. Johnson: Where was the Vision Quest, where did they take you?

Randall: Each person had a small area where I think what their intent was was to set it up so that you didn't see any other people's place and they were scattered around the Angel Valley resort in the various

Det. Johnson: Okay so how far away from the resort do you think you were?

Randall: I wasn't far away at all. I was, if you know where the creek was located at and where the dining hall is, I would be immediately across the creek and up under the (Inaudible) and there were two people within 100 yards of me in other directions. (Inaudible) one of these people in these other locations. (Inaudible) their sleeping bag or (Inaudible) pretty sure was not (Inaudible) too far away from them and I could also hear people at the Angel Valley Resort you know (Inaudible) coming from there.

Det. Johnson: Okay

Randall: Most of the people were not very far away. You know (Inaudible) were located all along that 70 acre property or whatever it was

Det. Johnson: Did you know what to expect from the sweat lodge?

Randall: Well I heard it was gonna be intense, I heard how long it was and you know someone had commented to me you know are you nervous at all about the (Inaudible) I said to him well yeah you know. I know what we're in for cause I've done this before and what he's talking about, that's a long time. And you know I expected that it was going to be quite difficult from the comments that James had made. And you know like I said he commented and said it's going to feel like you're going to die, I assure you, you will not. And you know embrace your fear about this you know. Something to that effect and all through it and when you come out on the other side you will be a much stronger person. (Inaudible) comment was something like that.

Det. Johnson: And he said that in the meeting room?

Randall: Right

Det. Johnson: Okay. Did he give any kind of health warnings or anything?

Randall: No

Det. Johnson: He didn't say if you have these kinds of medical issues or anything like that?

Randall: Nope

Det. Johnson: Okay. Did he talk about any kind of safety procedures while you were in, in case there's a problem inside the sweat lodge?

Randall: No he didn't

Det. Johnson: Okay. Did they tell you what to expect inside the sweat lodge as far as how you, in so much as how you should respond to any reactions to the sweat lodge?

Randall: The only thing that was really commented about inside the sweat lodge was that you know it's gonna be really dark and the pit is obviously a hazard and when you're navigating around the pit to (Inaudible) be very careful of the pit because of lava rocks and commenting about how dark it would be. And the other comments were just related to the people who are in the front row closest to the pit; it would be nice if they were able to lean back on the knees of the people behind them. And I know from myself I believe it was Kirby who was sitting behind me had offered to do that for me but when I do lean back on her I can tell when the knee is uncomfortable for her and so I couldn't do it. And so I couldn't do it.

Det. Johnson: It was cause of your weight

Randall: Right I mean I'm 220 pounds

Det. Johnson: Right

Randall: And she's a woman, not a small one but you know I'm not small

Det. Johnson: While you were inside or before did they say how to deal with the heat? Or like where to position your body or your face or anything to help deal with the heat?

Randall: What we were told was that the heat rises

Det. Johnson: Who told you this, though?

Randall: This was James

Det. Johnson: Again in the seminar, the seminar room?

Randall: Yes. Yeah, yeah. I'm sorry I can't recall all of it and (Inaudible) your questions have spurred my memory on many of these things. But he commented that heat rises and that obviously the lower you are in there the easier it will be you know for

the heat and being able to breathe. So you know that was a direction that was given there.

Det. Johnson: Did he give anything else though like if that doesn't work then do this or anything like that?

Randall: No

Det. Johnson: That was just the extent of it? Okay.

Randall: Like I said before a lot of his comments was that if you pass out, you'll be taken care of.

Det. Johnson: Did he say that in the seminar room or like in that meeting around the fire?

Randall: I don't recall which location it was, I'm having a hard time remembering it being in the room but maybe it was. Either in (Inaudible) group immediately before we walked into the lodge or while we were in the lodge.

Det. Johnson: Okay

Randall: And James did have dialogue with some people around the, around the circle during the (Inaudible) where I believe what his intent probably was, was to make sure things were okay over in that area. Like one specific individual I recall him interacting with was my friend Sean and that's the guy that I was trying to help. He was sitting, there was one person sitting in between us when we started and I was right next to him and Sean had commented during the seminar about he thought he was always sabotaging his efforts and James got down to the point where he thinks you're old and so he was commenting during the event you know, Sean when you make it through this, you're never again gonna feel like an old man.

Det. Johnson: So Sean had felt like he'd been sabotaging events or felt like James Ray was sabotaging him?

Randall: No sabotaging his own success you know.

Det. Johnson: So Sean felt like he was sabotaging himself?

Randall: Right. Yeah which is literally what, you know he was there to be given direction by you know James so he could be more successful in life and whatnot. And you know he had commented to Sean during the sweat lodge, you know even towards the end. And we (Inaudible) responding to him. So I guess what I would say about that is this (Inaudible) he was having dialogue with people maybe so he would not know that things were okay in that area. (Inaudible) or whatnot. Where I was sitting near the door when I went back in the beginning of the sixth round there I noticed the position that James was in which was one that would make it very difficult to observe what was going

on inside there you know. So he was right by the door so he would be essentially the first person who could leave and he was laying with his legs out and (Inaudible) arms under him not laying flat out the whole time but you know so his head would be up you know at the most like 8 or 10 inches off the ground and you know he in the very beginning was having quite a bit of, he was talking quite a bit, you know leading sort of a chant or a prayer or whatnot. We were told I guess a little later on I'm going to have to become a participant in this thing like you and I think what he was saying is that you know a little later on in this thing I'm not going to be leading these types of prayers or whatnot, I'm going to be there in it like you are, which is definitely what seemed to occur.

Det. Johnson: So he was talking, leading chants and the prayers at the beginning of the rounds. Did that end after the beginning of the sixth round or did that continue on later?

Randall: I would say that it (Inaudible) that was in the first four or five rounds and not to say that he wasn't communicating at all but it wasn't something that involved everyone. We were participating, he would say something and we would repeat after him and so there was (Inaudible). In that way, if that was continuing he would have the indication that at least everyone is you know everyone is at least communicating, is responding. For (Inaudible) a number of people were. I've heard some of his comments towards the end he would hear somebody hyperventilating and he would yell out you know you need to control your breathing; you need to slow your breath down.

Det. Johnson: Did you hear him yell anything else out during the events as far as what people should do when their having issues or telling other people to go help someone other than I know you said he had that one big guy help like carry out that person, did anything else like that happen?

Randall: That guy's name's Bill

Det. Johnson: Bill

Randall: Bill (Inaudible) is the guy's name

Det. Johnson: Oh yeah. He's one I was gonna talk to soon. And that was the Rugby player?

Randall: Right

Det. Johnson: Okay. You remember anything else like that though where he was directing people?

Randall: Only when individuals like he, when he directed Lou to you know help and for someone to help him. There were several other people that at least one of them he directed to assist him and at least two other people (Inaudible) didn't even get involved in commenting on what to do or what not. Just there were people helping.

Det. Johnson: Okay so he did tell Lou after he burned his hand to leave. Did you hear him tell anyone else they should leave or tell them you can go or anything like that?

Randall: No. The thing that I found very odd and was taken back by was that Lou left and shortly thereafter he returned and finished out the lodge from what I believe. Which when that, when I saw that, when I saw him come back in I'm thinking to myself what is this guy doing and why are they letting him do this? This guy's clearly got like third degree burns; he should be on his way to the hospital you know. And what are they thinking? And why isn't James you know saying something because when someone enters they enter you know right next to him where he could reach out and touch the person.

Det. Johnson: How did you know he had third degree burns?

Randall: Well I mean I saw the guy crawl in there. I know how hot the rocks were.

Det. Johnson: Was he screaming or anything when he crawled in?

Randall: No. He made a noise but it wasn't, it appeared to just you know, he didn't feel it so much. If that makes sense it was like the reaction wasn't one that you would have expected for having you know climbed into a hole with hot rocks in it. And I think if it wasn't for me screaming at him you know he may have crawled all the way into it. And I know at the point when he crawled in there, there wasn't an individual who was sitting up that had been able to see it. I was because I was sitting right next to Aaron by the door and you know there was a post or something that was helping to hold up the thing and there was a lot of people right there so I wasn't immediately able to lay all the way down. So I'm again up in a position where I can sort of see when the door is open or at the beginning of the round when there's light and you know that was how I saw that. It didn't appear to me that anyone else was in the position to have noticed what was going on there.

Det. Johnson: But obviously he knew he was injured cause he told him to leave and had somebody help him out.

Randall: Right I mean I yelled out like hey you know I think James Ray had said oh what happened? And I was like Lou just climbed into the pit with the rocks. It was like okay he needs to go or something to that effect.

Det. Johnson: So it was verbally communicated that he had been in the pit with the rocks. He leaves and then comes right back in.

Randall: And I think I was the one who communicated that

Det. Johnson: When you were in the back row before you left the first time why exactly was it you left? Was it just the heat; was there a steam issue, were there any other things going on?

Randall: Yeah it, what I, in looking back on it, I think one of the issues that was there was that the pit was off centered in my opinion towards the north side. Though it was closer, right, and not only that but on the south side when the door opened you got some fresh air, it cooled down for a minute, you could breathe easier and there was more room to lay down. All those things I think contributed to having the people in that region walk away sort of you know unharmed where the people on the back half of it didn't get any fresh air from when the door was open and were closer to the pit and when the water was thrown onto the rocks it was thrown from the south and so if you take a bucket and you throw the water out of it, four or five gallons or whatever it is, the steam would travel (Inaudible). Right, yeah and so we had actually got hit by water right when we were sitting there and so the steam did seem to come directly at you when you were there. Not only that but there was a small packet of what I believe to be sandlewood, at least that's what was said that was put on there. And it did appear that there was smoke that had come off of that. Now from what someone told me later is that it was very small and a little like (Inaudible) you know like what someone would carry drugs in. And (Inaudible) you know I did you know have some issue where my eyes, it felt like they were burning. So that was occurring prior to me leaving and there was no room for me to lay down. My muscles and everything were sort of tight where I was uncomfortable because of the position that I was sitting in and continuing to sit that way in all of that heat and being up relatively high because of the position I was in, it was extremely hot. My eyes were really burning and I remember thinking well are my eyes burning because of the tobacco that's in these pouches that are hanging directly in front of my face. And I know in the pouch that I had you know there's (Inaudible) these little pouches and what's in there is Skoal Wintergreen Chewing Tobacco. And I'm thinking well maybe that's what is burning my eyes you know or maybe it's the smoke that came off there or whatnot. But (Inaudible) feel like you're gonna pass out you know and like, or like you're gonna fall asleep and you kind of nod forward and you jerk back and you don't, well now with what was going on for me (Inaudible) the minutes leading up to me leaving, my eyes are burning, I'm uncomfortable, I can't lay down, I'm having a hard time breathing, I fell like I'm about to pass out

Det. Johnson: Was the breathing harder with the steam?

Randall: Yeah you know I would say it got (Inaudible) toward the end of the round maybe? Obviously the hot steam coming off there it would seem like it would heat you up but you know it was still extremely difficult all the way through. You know maybe (Inaudible) lesser to a small degree at the end

Det. Johnson: Yeah. Okay. Did anyone leave the lodge other than through the door?

Randall: Yeah there's one thing that happened and on the north side of the sixth round sometime someone had (Inaudible) the door was open on the south side had pulled the tent up and was sticking their face toward the opening and someone else did the same. And this was right in the immediate area where I was, where I started and you know people commented about it and James had said what's going on? Well someone's lifted up the tent, well put that down was the comment.

Det. Johnson: So James said put that down?

Randall: Right and you know it was words to that effect, I don't recall exactly what the wording was, the intent of it was put that down, it's not intended to have air coming in over there. And you know the people didn't obey that immediately. I think it took more than one comment before it actually came down.

Det. Johnson: So James Ray repeated that then?

Randall: So he repeated it or other people inside there repeated it, I don't know which but you know I know then that one that was opened when he had asked what was going on, I had commented that hey the tent is open over there. So that's how I know that for sure that he commented on it. And I think one of the people that was sticking their head out was Sydney and it was another a larger gentleman that's really in the immediate surroundings of where like James and Kirby are

Det. Johnson: Do you know if anyone went out through that?

Randall: Not during the event I don't believe anyone did

Det. Johnson: Okay

Randall: Toward the end from what I understand, that was where Sydney, I mean where Kirby and James were taken out, was from this side of the tent. Sean came out but it'd be north and if you were going in from the south side and you were headed around left toward the north side, you got half the east or west

Det. Johnson: If you went in the south and you made a clockwise circle around the compass, you'd be, when you first went left you'd be headed to the west side of the compass and then you'd be heading north

Randall: Yeah so due east then, right outside the east side is where Kirby and James were at after (Inaudible) had been taken out

Det. Johnson: But it was after the end of the eighth round?

Randall: Right

Det. Johnson: Okay. And Sean crawled out the north side on his own?

Randall: I don't know that he did on his own. He had moved towards it. I sort of picked him up and moved him, he moved on his own will in a direction other than where I was trying to lead him and then moved, crawled towards the outside of the tent. Now he may have crawled part way out himself but from what he has told me is that he was helped out over there.

Det. Johnson: Okay

Randall: That the thing is is that there's very few people that would have been able to move Sean

Det. Johnson: Because of his size

Randall: Right I mean the guys that would be capable of it were probably limited to 15 people you know

Det. Johnson: Okay. Did you hear anyone say they were having problems other than what we've already talked about?

Randall: I know that Greg had thrown up. You know which one Greg is? Greg (Inaudible) he's the development guy

Det. Johnson: He's thrown up at the fourth round?

Randall: He left I think after the fifth or after the fourth or something and he was the guy that I followed back in. And he was then like right behind me or right next to me. But he later told me was that he had been throwing up there inside when he went back in

Det. Johnson: So after he went back inside the tent after James asked for him to go back in he was throwing up?

Randall: Yes

Det. Johnson: Okay. Anyone else?

Randall: Not that I know of. I believe I heard at least someone else had but I don't know who and (Inaudible)

Det. Johnson: While you were inside though you don't remember hearing somebody saying they had a problem or this person had a problem

Randall: Yeah I mean I heard general comments that you know people needed help but most of them were related to individuals that were helped out.

Det. Johnson: Okay. Did you fill out any medical forms or were you asked about any health issues after

Randall: No I wasn't

Det. Johnson: Okay

Randall: Not before or after anything else. I was informed by (Inaudible) after me participating in that was not a smart idea given medication I was taking.

Det. Johnson: What medication were you on?

Randall: It was, there are four different things that I take and it's, what is it, two of them are for bipolar and one's anti-anxiety and the other was (Inaudible) another one of those

Det. Johnson: Like an (Inaudible) inhibitor type thing?

Randall: Yeah it was a I'm trying to think what the name of it is, Wellbutrin, (Inaudible)

Det. Johnson: So you're on Wellbutrin,

Randall: Seroquel

Det. Johnson: Seroquel

Randall: Lam icpal

Det. Johnson: How do you say that?

Randall: L-a-m -i-c-p-a-l

Det. Johnson: Okay and the fourth?

Randall: Eaclosen

Det. Johnson: Eaclosen. Okay

Randall: The one that the, Seroquel was the one that I was told was not a good thing to have been taking being in that environment.

Det. Johnson: Why is that, it raises your blood pressure or

Randall: No the side effects of Seroquel is it makes you tired or makes you fall asleep and what I was told was that the high temperature in there you know wouldn't be recommended you know for that type of medication. And you know it, I (Inaudible) less likely to wake up because of the

Det. Johnson: medication

Randall: (Inaudible) side effects of that Seroquel that puts you to sleep

Det. Johnson: Okay. Did you have any symptoms after you came out of the sweat lodge? I know we talked about what happened while you were inside but

Randall: Yeah you know the first time when I came out I was totally thinking there's no way I'm going back in there because my vision was distorted and you know my head spinning and I just literally feel like I'm gonna die and that was similar when I came out later. And you know pretty physically exhausted but nothing like it was the first time. The intensity was much greater the first time. The only real effect that carried on was my head was pounding all the way up until the following morning but and you know I felt a bit nauseous like I was gonna throw up but never did.

Det. Johnson: And that continued on until the next morning?

Randall: Right

Det. Johnson: Okay. Do you remember someone saying anything about a sweat lodge, I'm sorry; do you remember anyone saying something about a flashlight?

Randall: Having one in there you mean?

Det. Johnson: Yeah

Randall: No

Det. Johnson: Okay

Randall: You mean asking if we could take one in? Or having one in there?

Det. Johnson: Like there was one in there and someone said something about it or thinking there was one in there.

Randall: No. I didn't hear that and I would think that that could be really cause someone opened the tent

Det. Johnson: The flap on the north end?

Randall: Right because that would allow light in and that might be what someone was thinking was the flashlight

Det. Johnson: Yeah I think that's where we got that originally. So when you left I know you left Sean inside and the two women because you were about to lose consciousness. (Inaudible) remember anyone else?

Randall: Anyone else?

Det. Johnson: Inside

Randall: Yeah I mean there was quite a few people still in there. You know I'm sure (Inaudible) James and Kirby (Inaudible) way out laying in the position that they were which was Greg made (Inaudible) Sean was at and there were still quite a few people in there when I went out which is really why before I sort of you know ran onto the tarp I yelled out you know the people in there need help. Because I had done all that I could and I'd moved some people but most of them were so (Inaudible) motor skills to coordinate the move and it was very difficult you know to maneuver in there (Inaudible) somebody else. But not only that yourself, from the way I crawled out the first time it was, you know I'm crawling on my hands and knees. I got (Inaudible) all over there because I'd be dragging my, dragging my knees and you know like my arms in front of me would sort of fall over and I was just that weak.

Det. Johnson: Did you tell anyone, and when you yelled that out you could tell James heard you? You told me because you saw him say something to that staff member in response about they're okay inside?

Randall: Yep

Det. Johnson: Okay. Did you hear anyone talk about having a heart attack and thinking they were gonna die?

Randall: Outside you mean?

Det. Johnson: Inside

Randall: No I didn't hear anyone comment that someone was having a heart attack inside

Det. Johnson: Okay. Did you hear anyone say anything like it's a good day to die?

Randall: Yeah. And just to clarify the thing where, the Native American ceremony it was commented this thing is like a (Inaudible) ceremony. And that had been related to other things that we were doing leading up to doing the sweat lodge. We had been shown 10 minutes of the movie The Last Samurai and you know sort of like what the intent was was for you to sort of die, not literally but metaphorically, leaving your past behind you. Alright, so your past isn't as (Inaudible) your future alright so you can be free of it. That's really what some of the comments (Inaudible) and whatnot are coming from.

Det. Johnson: Okay. You didn't hear anything inside the lodge about that kind of stuff?

Randall: What's said wouldn't shock me because of the context that it was in.

Det. Johnson: Okay so if you had heard something similar to that you interpret that as metaphorically not literally

Randall: Exactly

Det. Johnson: Okay. You told me how James Ray responded to the people who were in distress. Do you think he should have responded differently?

Randall: Yeah I do. I think it was very delayed and he was (Inaudible) preserve their organization you know. And you know I would say that yeah there's negligence on their part and they should have taken different measures from the beginning and throughout. Things were just very poorly planned and even after it, there's no question in my mind that they delayed intentionally to call for help because of you know what that means from a media standpoint and from you know from a negative image on their organization or whatnot. So yeah I know that someone told me that he was either told or heard a conversation between staff for James Ray that don't talk to the law enforcement.

Det. Johnson: Who told you that?

Randall: I don't recall who you know because it's, everyone's talking to everybody after the fact and it, didn't mean much to me but I guess if I had to guess who it was because this is the woman I spoke to the most after was a woman named Jennifer and she was one of the volunteers and she had gotten (Inaudible) a disagreement the volunteers with James the last night that we were on the Vision Quest. You know cause I guess they had had a glass of wine at the something they were doing and I guess he didn't like that or whatever and so that turned into a little argument. She was definitely of the opinion that they handled the thing very poorly and that they should have done things differently.

Det. Johnson: When she had heard

Randall: She was probably the one that told me that

Det. Johnson: Did you hear that like well after this or while we were first responding there and you know the paramedics and we're all dealing with casualties that the staff was already talking about don't talk to law enforcement.

Randall: I think it would have been you know early on because obviously once everyone saw how many people showed up that that would be totally undoable to not be involved in that way, in that kind of conversation (Inaudible)

Det. Johnson: (Inaudible) So while people are even still being treated by medical and law enforcement's there and we're trying to help people, you're understanding was they were already talking about don't talk to law enforcement.

Randall: Yeah I think it probably came from Jennifer the, you know either heard this or was told that. I don't know if you know who she is but

Det. Johnson: I think I have her name. Do you remember her last name by chance?

Randall: No I don't but she was one of the volunteers which was that Dream Team, there's not that many volunteers (Inaudible)

Det. Johnson: Yeah I know I knew of a name around here so yeah she was Jennifer on the Dream Team and she told you that night that is when she told you about this

Randall: Right

Det. Johnson: Okay. Did she tell you anything about that they did delay on purpose in calling us because of media concerns or

Randall: No, that was only a speculative comment

Det. Johnson: But I mean did someone else speculate that or is that based just on your belief knowing about this organization and (Inaudible)

Randall: Well how we see you know other people get injured at those other events like the guy Sean who broke his hand; you know the guy was my friend that was there. Really (Inaudible) hospital. I know what the guys at the hospital commented to all the people that didn't go there that time in Hawaii. It was you know they were like what are you idiots doing out there you know that kind of thing. Like what were you thinking, trying to break a concrete block with your hand or you know. And I don't think James is dumb, he knows that kind of stuff's (Inaudible) responsibility on their thing and so no it would be speculative comments

Det. Johnson: Yeah but it's always in speculation just based on your experiences is why you believe that

Randall: Right

Det. Johnson: Okay, how did you feel about leaving the sweat lodge during the ceremony?

Randall: Well I felt like I was being looked down upon when I did.

Det. Johnson: Okay, did James say anything to you?

Randall: No I don't think he did. He asked someone who it was and I kinda felt like he just shook his head and sorta like yeah that figures. You know was kinda what my feel was on it but you know I was pretty disoriented at that point. When I was going out I don't think that if, that he had made the comment to me like he had to others which was you're more than that, you can do this, you know. Stick it out or whatever, that's the comments he was making to other people, you know.

Det. Johnson: Is there any reason you didn't leave earlier?

Randall: Yeah I wanted to make it through the whole thing and I think there's probably a lot of ego and all that kind of stuff that was involved and he (Inaudible) on the outside and you know there's still a large number of people that are in there you know

were outside. When I was out there there's maybe five people that had left where I was the only male who was out and I'm looking at it like (Inaudible) you know there's all these other men that are in there, their making it through this thing, that was definitely screwing with my head. So I wanted to be able to finish it and I didn't think when I had come out until I saw Greg go back in that I would have really gone back but for some reason when he went I moved and did the same and just up and (Inaudible). And

Det. Johnson: Was anyone discouraged from helping someone in distress?

Randall: No

Det. Johnson: So when did you first realize something was wrong and there was a problem?

Randall: I never had indications that there was a problem until I saw like Lou climb into the pit with the hot rocks and hearing people hyperventilate inside and you know people being you know helped out. He helped me carry them out you know. Which at that time I'm thinking like wow this is not such a good idea, why is he inclined to (Inaudible) for so long, why doesn't he just wrap it up, you know?

Det. Johnson: So what do you think happened in there?

Randall: What do I think was the problem?

Det. Johnson: Right. Was it the lopsided construction you think and just the number and heat of the rocks, the length of the rounds, those things you were already telling me about?

Randall: Yeah and I think it was off center that you know played a part in it and if it had doors on each side and that would have helped cool some of those people down, give them a little bit of fresh air. I feel the rounds were probably too long. There was too many rocks probably brought in, probably too many people in there to really manage the, you know event. And just a very poor response to a sort of heat factor (Inaudible) issue but you know I think people put a hell of a lot of trust in James because it was, the guy's a really powerful guy. And you know he's helped a lot of people and you know I think almost everybody knew that he's done these things before and they didn't follow what their intuition was.

Det. Johnson: They expected him to protect them kind of thing

Randall: Right and you know if you're looking at it, what should have happened is they probably should have done more of the screening of the people you know. They probably should have had, there's some way to have people you know placed around the circle there to monitor (Inaudible) you know. And they should have had medical staff outside you know. That day maybe James and Kirby wouldn't have died.

Det. Johnson: Yeah exactly. Has anyone talked to you about what to say if questioned by law enforcement?

Randall: No

Det. Johnson: Have you had any contact from that organization since the incident?

Randall: I got the email about the conference call that they placed. Are you aware of that?

Det. Johnson: Yeah, that was awhile back, right?

Randall: Yeah that was last week I think

Det. Johnson: Okay did you get any further emails or any other communication?

Randall: No, no they were non-personal emails typed generically up to participants and you know (Inaudible) and I did call in and on the call didn't say anything but listened for 20 minutes or so before I had to leave for a business meeting.

Det. Johnson: Did James Ray or anyone else tell you about his qualifications for running a sweat lodge or was it just your knowledge or him having talked about how long he had done this?

Randall: Well we heard a lot about what his training had been with different things like he's a member of four shamanic orders.

Det. Johnson: Have you heard him say this?

Randall: Yes at almost every event he said that at least once that you know he's been to four shamanic orders and I know that he's spent a lot of time in Egypt and Peru and you know a lot of places like that. And from what I understand he was an employee of Tony Robbins and you know I knew all of that and you know so it wouldn't cause me to question he didn't know what he was doing. Because from what I know of the (Inaudible) tribes and stuff like that is that type of sweat lodge is a common thing.

Det. Johnson: Right. Okay. You said he did reference how many of these he had done in years past during the conference?

Randall: Yes he did (Inaudible) you know. He commented that he did have this event for x number years and this has been a part of it and commented that you know people who have participated in it you know that were Native American or whatnot had commented that it's sort of the most extreme you know sweat lodge and I think he took pride in that and that he was commenting was you know this isn't a sweat lodge like some people do, I think he was probably referring to some other type of, someone else like Tony Robbins probably

Det. Johnson: Some other organizations that's not as intense as his

Randall: I think his (Inaudible) downfall was that he allowed ego to enter into the whole thing and people were injured because of that

Det. Johnson: Was there anything else that had gone on during this Desert Warrior thing that we haven't talked about that you know ties in with this do you think?

Randall: No I don't think there's really any

Det. Johnson: Because I mean I've asked you everything I have but I mean you were there for several days and I'm trying to gain knowledge of this from you so if there's something we haven't covered that you'd like to tell me about or I should know about

Randall: No I can't think of many other things but as you've been asking questions obviously there were stuff that came up that didn't immediately ring a bell and you know I do have your number so if I think of anything else I will obviously call you and tell you.

Det. Johnson: Okay. Was there any kind of psychological control tactics or any incidents where people were told do it this way, do this kind of thing, anything that seemed extreme to you in this event before the whole sweat lodge thing? Any exercises or anything that you remember?

Randall: No. What we knew of the experience that we were having there was that we were going to be in for an extreme altered state through a large portion of the event and from what James was saying that you know being in that sort of state you know is a heightened (Inaudible) of awareness and ability to learn. I tend to agree with that statement. And so we were told that and I would say that that's, that we were in that state and you know willingly went there. And you know that's gonna happen when you're in meditation and they have another thing Holotropic Breathwork. I don't know if you have any idea what that is but I can tell you if you're serious about it. It was developed by someone who had done LSD studies in the 60's and saw the profound effect that it had on the people who participated in it. They seemed to have an enlightened view of their own reality and so he wanted to replicate this in a way that did not involve drugs. And what they came up with was this thing called Holotropic Breathwork where he wrote a book that talks about it. We think the author's name is Stanislov Grof or something like that and I read part of it. But basically you're highly oxygenating your system and you're going to feel like you have an out of body experience where you know you sort of reconnect with the (Inaudible) source or something like that and

Det. Johnson: So you're creating an altered state of consciousness by changing the (Inaudible) of oxygen in your blood?

Randall: Exactly I mean you're breathing in and breathing out really rapidly and

Det. Johnson: Oh so you're manually hyperventilating. You're forcing hyperventilation to induce this altered state of consciousness.

Randall: Yes, yes and you know it's like a two hour thing

Det. Johnson: Was there any other stuff like any kind of sleep deprivation things that were extreme?

Randall: Well it was all voluntary to, you know, to stay up. The majority of the people had a minimal amount of sleep prior to going on the Vision Quest and we were I guess you could say we were encouraged to stay up and you know be present to what was going on and to utilize the time in a way that would make it more (Inaudible) and that

Det. Johnson: Well were there activities going late into the night or was there just independent stuff late at night?

Randall: Well every night you know you were in sort of the seminar or whatever until 10:00 til midnight or something like that and then you were writing in a journal that some people sit all night, multiple nights, you know prior to going out on this Vision Quest. And then many people continued writing as they were out there. I personally did not because at the time that I had went to that Vision Quest I'd already written 40 pages maybe you know. I felt like I had covered everything that I could possibly you know uncover in my past that would have ever had any effect on me. Many people probably didn't sleep

Det. Johnson: Okay, was there any like massive group things where people were encouraged to do stuff together? Like was there any head shaving at this year's event?

Randall: There was yeah. That was the very first night at, I mean we arrived and you know were sort of being oriented on the grounds and what we were going to do. This thing was brought up as a way to sort of you know let go of your self image and to you know realize that when you're potentially held back by you know having to look good and you know for most of the men that was a non event, it's like whatever you know. I'll cut my hair, me personally I did and you know I've had my head shaved for like 10 years of my life before so it was no big deal. And it wasn't for most of the men. But for the women you know I think many of them recognized that that was something that you know eventually was an issue for them and but many of them participated in that and from what I know it was anywhere between 15 and 25 of them that did that.

Det. Johnson: Okay. Was there any kind of stuff where people were encouraged to disrobe, any kind of weird stuff like that?

Randall: No, no

Det. Johnson: Okay, there were no events where anything like that happened?

Randall: There was really nothing weird at all. It was all pretty you know just nothing was a big deal

Det. Johnson: So up until like the Vision Quest and the sweat lodge there was nothing really bizarre and unusual about this?

Randall: I mean the Vision Quest isn't really bizarre because it's something that was done by many Native American tribes and stuff like that and it really wasn't a big deal you know. In a lot of ways from what I know of what the Native American tribes do, they do this for three or four days. We did this for 36 hours.

Det. Johnson: I was talking more about the sweat lodge. I do know the Vision Quest has been done quite a bit. The sweat lodge obviously has been done before, just not to this extreme. Were there any other significant events, injuries, anything that happened during this whole thing we haven't covered?

Randall: The one individual who participated in an event that I was not able to see who had injured his shoulder and what I understand happened is that there were two teams and so there were two opponents competing for how long they could hold up a series of books in each hand above their shoulder level. And one individual ended up having some type of shoulder injury as a result of that.

Det. Johnson: Oh okay. Anything else we haven't covered that just popped in?

Randall: No

Det. Johnson: Like you said you have my phone number and you have my direct desk number, correct? The one I left on the message?

Randall: I called back the number that showed up on my phone which went through like the receptionist or something

Det. Johnson: Yeah that goes to dispatch. If you still have that voice mail that's the number that goes straight to my desk

Randall: Okay

Det. Johnson: But you can reach me on either number. If you think of anything else please do call me back, okay?

Randall: Okay will do.

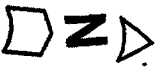
Det. Johnson: And thank you very much. I really appreciate you taking so much time out of your day for this.

Randall: Absolutely, alright thanks a lot.

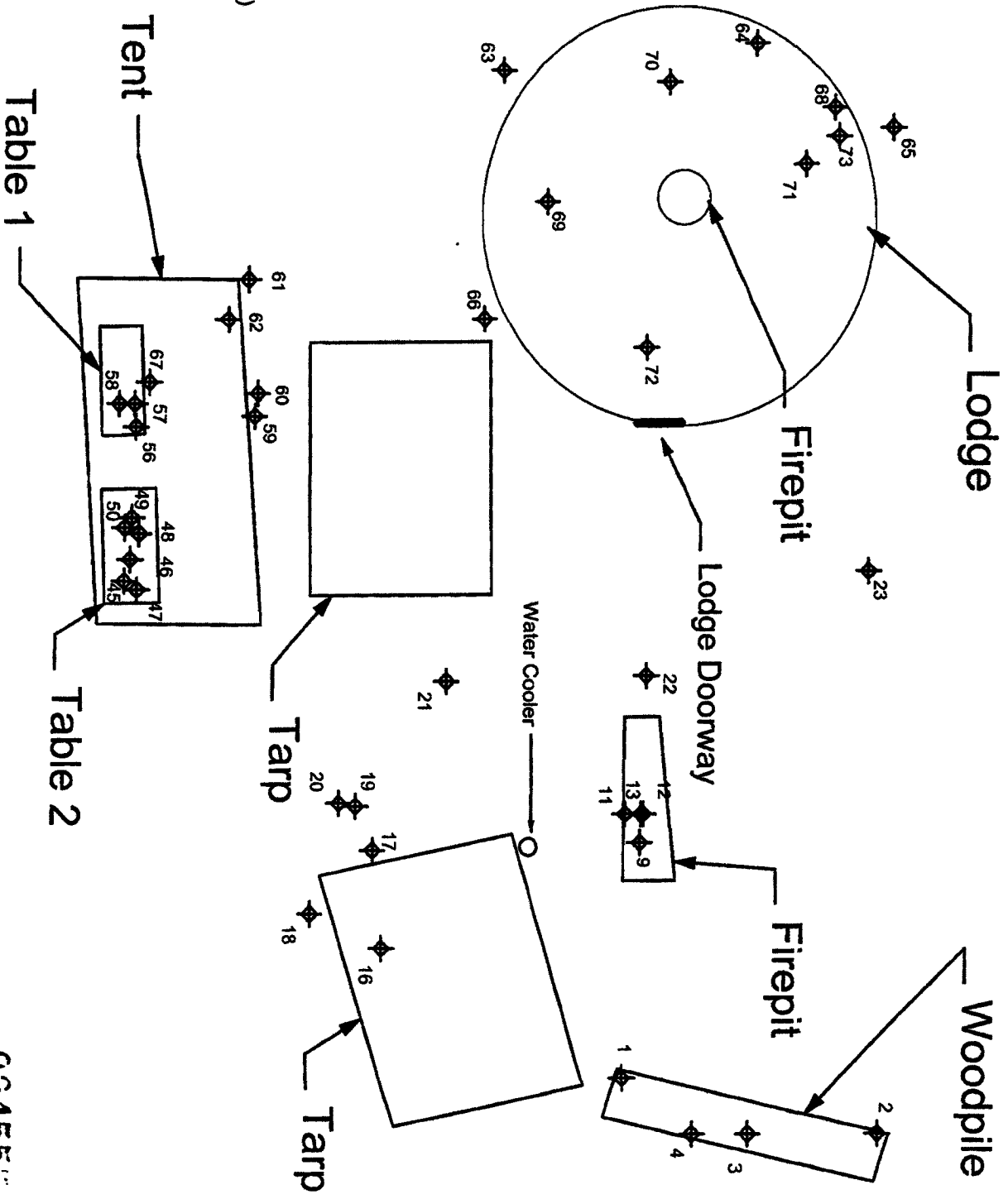
Det. Johnson: You're welcome. Bye bye

Randall: Bye.

Thu Mar 11 10:53:58 MST 2010
Apvd C16/0394 DBW



Reference Point (RP)
N 34 deg. 48.207'
W 111 deg. 52.606'



NOTE
Numbered Targets: The number is 'Point'
number on Evidence Listing page of Scene
Diagram Measurement Log.

Case Name: Angel Valley	Title: Scene Diagram
Case No: 09-040205	Drawn by: Det. Steve Page #5430
Address: 13513 Angel Valley Rd.	Date: November 15, 2009
Sedona, AZ 86336	Scale: Not To Scale

004555

Point	From RP (East) Distance*	From Baseline Distance*	N/S	Point Description
RP	0.00	0.00	n/a	Reference Point: N 34 deg 48.207' W 111 deg. 52.606'
1	76.06	19.00	N	Evi# 1 - Firewood (effective S. end woodpile)
2	79.09	34.03	N	Evi# 4 - Firewood (effective N. end woodpile)
3	79.09	26.06	N	Evi# 3 - Firewood
4	79.09	23.02	N	Evi# 2 - Firewood
9	62.09	20.00	N	Evi# 5: Firepit Rock
11	61.01	19.02	N	Evi# 6: Firepit Rock
12	61.01	20.03	N	Evi# 7: Firepit Rock
13	61.01	20.01	N	Evi# 8: Firepit Rock
16	69.00	4.07	N	Evi# 9: Water bottle
17	63.03	4.00	N	Evi# 10: Bathing suit
18	67.00	0.03	N	Evi# 11: Black water bottle
19	60.08	3.00	N	Evi# 12: Tobacco pouch
20	60.06	2.00	N	Evi# 13: Blanket
21	53.04	8.04	N	Evi# 14: Tobacco pouch
22	53.00	20.05	N	Evi# 15: Water Bottle
23	46.11	33.09	N	Evi# 16: Black duck
45	47.07	11.00	S	Evi# 17: water bottle on Table 2
46	46.04	10.08	S	Evi# 18: water bottle on Table 2
47	48.01	10.03	S	Evi# 19: water bottle on Table 2
48	44.10	10.02	S	Evi# 20: water bottle on Table 2
49	43.11	10.07	S	Evi# 21: water bottle on Table 2
50	44.06	11.00	S	Evi# 22: water bottle on Table 2
56	38.08	10.05	S	Evi# 23: Water cooler on table 1; "Lemon water"
57	37.04	10.06	S	Evi# 24: Water cooler on table 1; "Electrolyte"
58	37.04	11.05	S	Evi# 25: drink pitcher on table 1 (behind Evi# 24)
59	38.00	3.04	S	Evi# 26: Water bottle
60	36.08	3.02	S	Evi# 27: Water bottle
61	30.00	3.09	S	Evi# 28: Water bottle
62	32.04	5.00	S	Evi# 29: Backpack
63	17.10	11.07	N	Evi# 30: White pants
64	16.03	27.00	N	Evi# 31: Blue clothing
65	21.02	35.03	N	Evi# 32: Shorts
66	32.03	10.06	N	Evi# 33: Sage
67	36.01	9.08	S	Evi# 34: Cold packs
68	20.00	31.09	N	Evi# 35: Tobacco pouchs (on top of lodge)
69	25.05	14.04	N	Evi# 57: Lodge roof sample, S side
70	18.06	21.08	N	Evi# 58: Lodge roof sample, W side
71	23.03	30.00	N	Evi# 59: Lodge roof sample, N side
72	33.11	20.04	N	Evi# 60: Lodge roof sample, E side
73	21.08	32.00	N	Drag mark at N. edge inside lodge (measured to center of mark)

* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

** "Evi# (n)": (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

004550

Point	From RP (East) Distance*	From Baseline Distance*	N/S	Point Description**
RP	0.00	0.00	n/a	Reference Point. N 34 deg 48.207' W 111 deg. 52.606'
1	76.06	19.00	N	Ev# 1 - Firewood (effective S. end woodpile)
2	79.09	34.03	N	Ev# 4 - Firewood (effective N. end woodpile)
3	79.09	26.06	N	Ev# 3 - Firewood
4	79.09	23.02	N	Ev# 2 - Firewood
5	79.04	5.04	N	Tarp: SE corner
6	76.11	16.08	N	Tarp: NE corner
7	64.09	0.10	N	Tarp: SW corner
8	62.03	12.04	N	Tarp: NW corner
9	62.09	20.00	N	Ev# 5: Firepit Rock
10	65.00	20.07	N	Firepit: Center, E. end; 3'1" width
11	61.01	19.02	N	Ev# 6: Firepit Rock
12	61.01	20.03	N	Ev# 7: Firepit Rock
13	61.01	20.01	N	Ev# 8: Firepit Rock
14	63.00	13.04	N	Water Cooler (center point, 10" inside diameter) Reference only
15	55.05	20.02	N	Firepit: Center, W. end; 2'1" width
16	69.00	4.07	N	Ev# 9: Water bottle
17	63.03	4.00	N	Ev# 10: Bathing suit
18	67.00	0.03	N	Ev# 11: Black water bottle
19	60.08	3.00	N	Ev# 12: Tobacco pouch
20	60.06	2.00	N	Ev# 13: Blanket
21	53.04	8.04	N	Ev# 14: Tobacco pouch
22	53.00	20.05	N	Ev# 15: Water Bottle
23	46.11	33.09	N	Ev# 16: Black duck
24	48.03	11.00	N	Tarp: NE corner
25	48.03	0.02	N	Tarp: SE corner
26	33.07	10.10	N	Tarp: NW corner
27	33.07	0.05	N	Tarp: SW corner
28	38.04	19.10	N	Lodge: East door, S. Edge
29	38.04	22.05	N	Lodge: East door, N Edge
30	36.00	28.05	N	Lodge: Point on NE edge
31	36.00	15.04	N	Lodge: Point on SE edge
32	28.00	32.09	N	Lodge: Point on N edge
33	28.00	10.10	N	Lodge: Point on S edge
34	20.00	32.09	N	Lodge: Point on NW edge
35	20.00	12.08	N	Lodge: Point on SW edge
36	14.00	24.00	N	Lodge: Point near N/S center at West edge
37	30.00	4.05	S	Tent: NW corner
38	30.00	14.00	S	Tent: SW corner
39	50.01	2.10	S	Tent: NE corner
40	50.01	12.07	S	Tent: SE corner
41	48.11	9.10	S	Table 2: NE corner (east table inside tent)
42	48.11	12.02	S	Table 2: SE corner (east table inside tent)
43	42.04	9.02	S	Table 2: NW corner (east table inside tent)
44	42.04	12.05	S	Table 2: SW corner (east table inside tent)
45	47.07	11.00	S	Ev# 17: water bottle on Table 2
46	46.04	10.08	S	Ev# 18: water bottle on Table 2
47	48.01	10.03	S	Ev# 19: water bottle on Table 2
48	44.10	10.02	S	Ev# 20: water bottle on Table 2
49	43.11	10.07	S	Ev# 21: water bottle on Table 2
50	44.06	11.00	S	Ev# 22: water bottle on Table 2
51	39.01	9.11	S	Table 1: NE corner (west table inside tent)
52	39.01	12.05	S	Table 1: SE corner (west table inside tent)

* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

** "Ev# (n)": (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

Point	Distance*	Distance*	N/S	Point Description**
53	32.09	10.02	S	Table 1: NW corner (west table inside tent)
54	32.09	12.07	S	Table 1: SW corner (west table inside tent)
56	38.08	10.05	S	Evi# 23: Water cooler on table 1; "Lemon water"
57	37.04	10.06	S	Evi# 24: Water cooler on table 1; "Electrolyte"
58	37.04	11.05	S	Evi# 25: drink pitcher on table 1 (behind Evi# 24)
59	38.00	3.04	S	Evi# 26: Water bottle
60	36.08	3.02	S	Evi# 27: Water bottle
61	30.00	3.09	S	Evi# 28: Water bottle
62	32.04	5.00	S	Evi# 29: Backpack
63	17.10	11.07	N	Evi# 30: White pants
64	16.03	27.00	N	Evi# 31: Blue clothing
65	21.02	35.03	N	Evi# 32: Shorts
66	32.03	10.06	N	Evi# 33: Sage
67	36.01	9.08	S	Evi# 34: Cold packs
68	20.00	31.09	N	Evi# 35: Tobacco pouchs (on top of lodge)
69	25.05	14.04	N	Evi# 57: Lodge roof sample, S side
70	18.06	21.08	N	Evi# 58: Lodge roof sample, W side
71	23.03	30.00	N	Evi# 59: Lodge roof sample, N side
72	33.11	20.04	N	Evi# 60: Lodge roof sample, E side
73	21.08	32.00	N	Drag mark at N. edge inside lodge (measured to center of mark)
74	25.02	22.05	N	Firepit inside lodge; center of pit (3' 0" diameter)

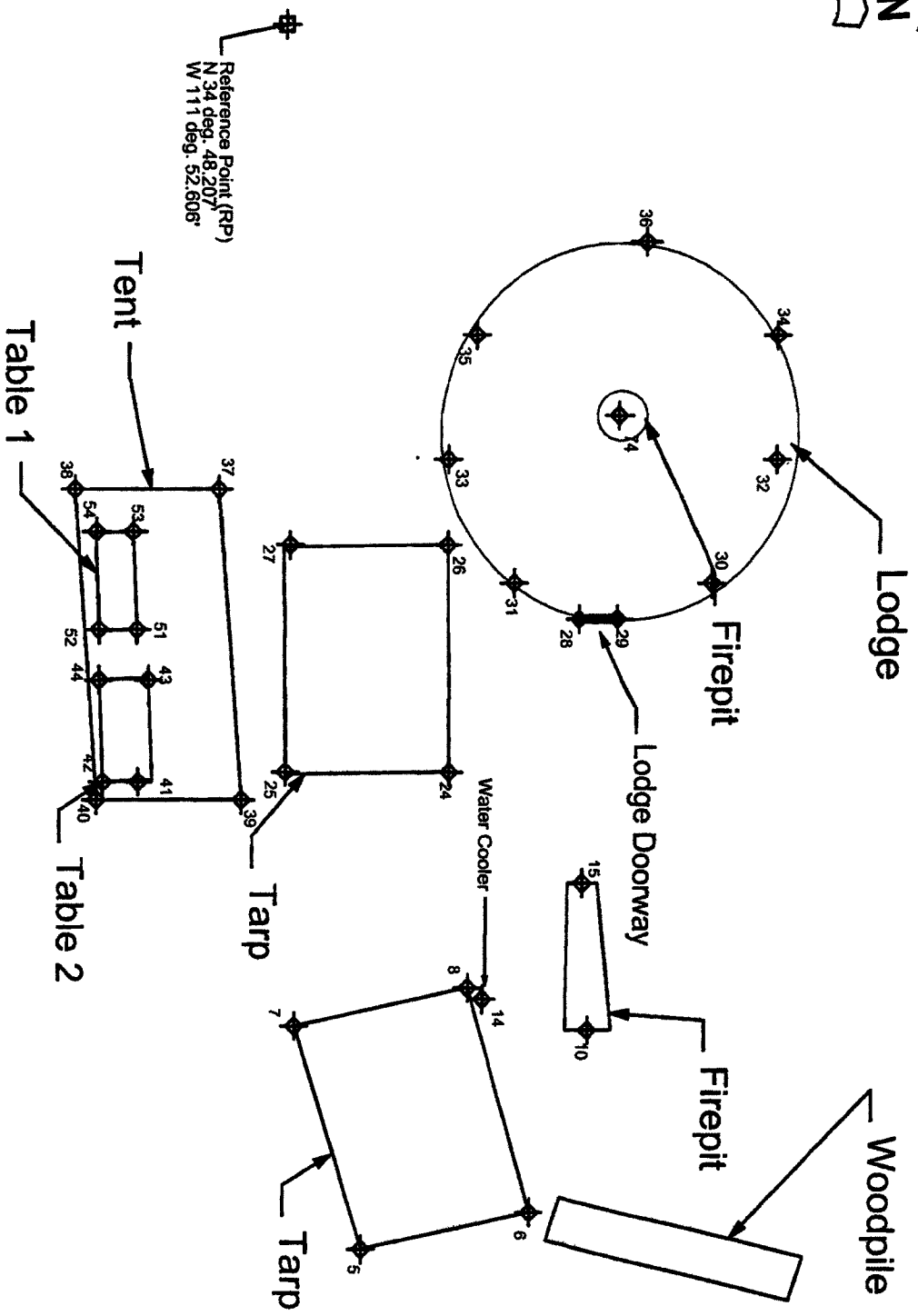
* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

** "Evi# (n)": (n) relates to tent number in scene photographs

North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

004553



NOTE
Numbered Targets: The number is 'Point'
number on Lodge/Tent/Objects Listing page of Scene
Diagram Measurement Log.

004553

Case Name: Angel Valley	Title: Lodge/Tent/Objects Diagram
Case No: 09-040205	Drawn by: Det. Steve Page #5430
Address: 13513 Angel Valley Rd.	Date: November 15, 2009
Sedona, AZ 86336	Scale: Not To Scale

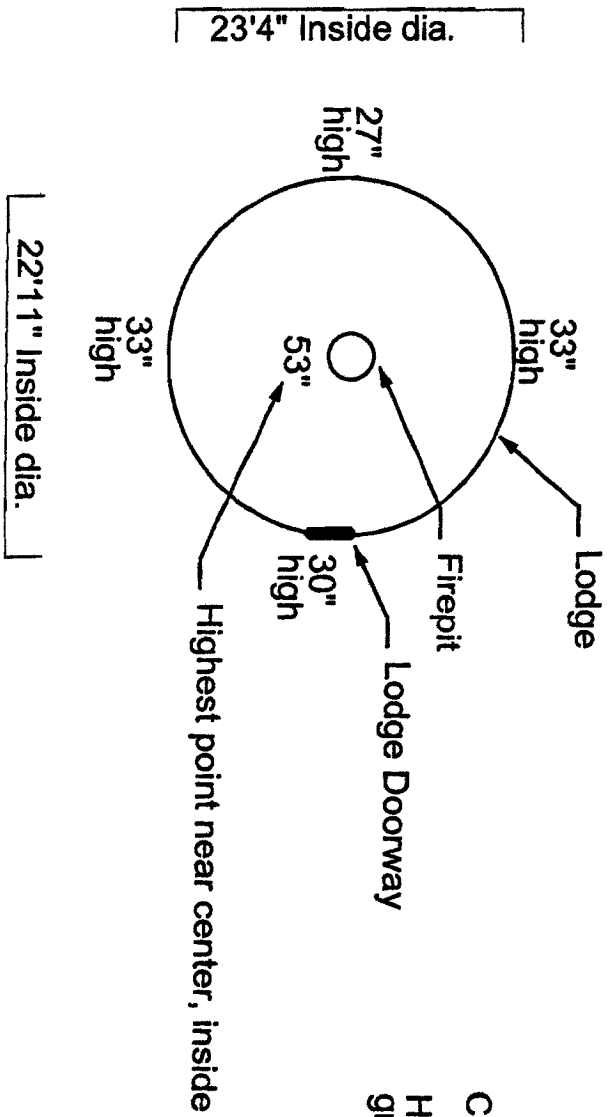
Point	From RP (East) Distance*	From Baseline Distance*	N/S	Point Description
RP	0.00	0.00	n/a	Reference Point: N 34 deg 48.207' W 111 deg. 52.606'
5	79.04	5.04	N	Tarp: SE corner
6	76.11	16.08	N	Tarp: NE corner
7	64.09	0.10	N	Tarp: SW corner
8	62.03	12.04	N	Tarp: NW corner
10	65.00	20.07	N	Firepit: Center, E. end; 3'1" width
14	63.00	13.04	N	Water Cooler (center point, 10" inside diameter) Reference only
15	55.05	20.02	N	Firepit: Center, W. end; 2'1" width
24	48.03	11.00	N	Tarp: NE corner
25	48.03	0.02	N	Tarp: SE corner
26	33.07	10.10	N	Tarp: NW corner
27	33.07	0.05	N	Tarp: SW corner
28	38.04	19.10	N	Lodge: East door, S. Edge
29	38.04	22.05	N	Lodge: East door, N Edge
30	36.00	28.05	N	Lodge: Point on NE edge
31	36.00	15.04	N	Lodge: Point on SE edge
32	28.00	32.09	N	Lodge: Point on N edge
33	28.00	10.10	N	Lodge: Point on S edge
34	20.00	32.09	N	Lodge: Point on NW edge
35	20.00	12.08	N	Lodge: Point on SW edge
36	14.00	24.00	N	Lodge: Point near N/S center at West edge
37	30.00	4.05	S	Tent: NW corner
38	30.00	14.00	S	Tent: SW corner
39	50.01	2.10	S	Tent: NE corner
40	50.01	12.07	S	Tent: SE corner
41	48.11	9.10	S	Table 2: NE corner (east table inside tent)
42	48.11	12.02	S	Table 2: SE corner (east table inside tent)
43	42.04	9.02	S	Table 2: NW corner (east table inside tent)
44	42.04	12.05	S	Table 2: SW corner (east table inside tent)
51	39.01	9.11	S	Table 1: NE corner (west table inside tent)
52	39.01	12.05	S	Table 1: SE corner (west table inside tent)
53	32.09	10.02	S	Table 1: NW corner (west table inside tent)
54	32.09	12.07	S	Table 1: SW corner (west table inside tent)
74	25.02	22.05	N	Firepit inside lodge; center of pit (3' 0" diameter)

* Measurements: Feet.Inches (e.g. 76.06 = 76' 6"; 76.11 = 76' 11")

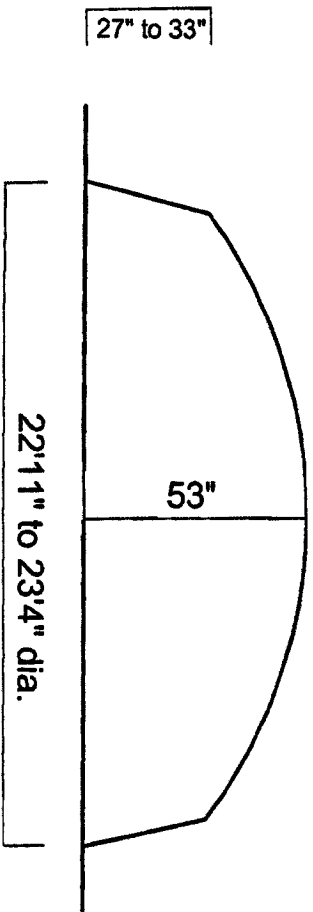
North: documented by photograph of baseline tape w/ compass

GPS Data: Altitude: 3691 ft; Accuracy: 21 ft.

004560



Circumference at base: 73'9"
 Height measurements are from
 ground to lower horizontal rail



Representative Elevation View

004561

Case Name: Angel Valley	Title: Heights / Elevation View
Case No: 09-040205	Drawn by: Det. Steve Page #5430
Address: 13513 Angel Valley Rd.	Date: November 15, 2009
Sedona, AZ 86336	Scale: Not To Scale

DEATH & A BOGUS SWEATLODGE

ANGEL VALLEY (SEDONA), ARIZONA

OCTOBER 2009

How Death Became a Participant
and Not Just a Metaphor

An Overview by Douglas Sundling

Based on the investigation interviews and evidence gathered by the Yavapai County Sheriff's Office of Arizona, a look at how self-help entrepreneur **James Ray** chose to disregard inherent safety features of traditional sweatlodge ceremonies and to add risks beyond any traditional sweatlodge when he designed and executed a sweat ceremony for over 50 people. In doing so, **James Ray** designed a sweat ceremony that would invite death to be a participant and to not just be a metaphor.

Part One is an analysis of how **James Ray** designed and executed a bogus sweatlodge ceremony for 56 people.

Part Two provides a narrative of **James Ray's** 5-day Spiritual Warrior Retreat.

In memory of
Kirby Brown, Liz Neuman, and James Shore
who gave their trust sincerely.

To all who honor the sweatlodge -
may we learn from this tragedy.

To the detectives and personnel
of the Yavapai County Sheriff's Office -
thank you for the sincerity of your efforts.

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THE HEAT

How did Mr. Ray generate such intense heat?

Based on the testimony of Randy Potter and Julie Min, the pit into which the hot rocks were placed was off center toward the north. A capable sweatlodge facilitator knows that a slight dip or rise in the ground floor of a sweatlodge affects the amount of heat experienced by folks at those spots. A slight dip creates a cooler spot; a slight rise or hump creates a hotter spot. To place the pit off-center toward the north and further from the door in the south meant that a lot more heat would be concentrated in the north. And the size of the enclosed, tarped domed structure meant that little if any fresh outside air would reach the north when the door was opened between rounds.

The lack of cool, fresh air circulating through the lodge outside of the areas adjacent to the door in the south was evident in the testimony of the participants, most notably the lack of air into the north end.

Randy Potter provided an exceptional comparison of sitting in the north to sitting in the south. Randy left after four rounds and reentered at the start of the sixth round. For the first four rounds, he sat in the north side on the inner circle next to James Shore, and Kirby Brown sat one person to his left and behind him. When he reentered at the start of the sixth round, he positioned himself near the door. He compared being in the two places for Det. John Johnson:

On the south side when the door opened, you got some fresh air, it cooled down for a minute, you could breathe easier, and there was more room to lay down. All those things I think contributed to having the people in that region walk away unharmed, where the people on the back half of it didn't get any fresh air when the door was opened and were closer to the pit. And the water was thrown onto the rocks from the south, and we actually got hit by water right when we were sitting there. And the steam did seem to come directly at you when you were there.

Potter's description illustrated how these mishaps of design would invite execution of ill-desired laws of physics.

Unless future testimony reveals that rocks were removed from the pit after the ceremony and prior to the police investigation, YCSO deputies found a total of 58 rocks in the pit inside the lodge structure.

Six people remembered twelve rocks being brought for the first round. One participant thought seven or eight were brought in. Fawn Foster, an employee of Angel Valley who was helping on the outside, said she counted twenty. Twelve would seem to have been the accurate count for the first round of rocks.

For the second round, three of those six folks – Beverly Bunn, Laura Souter, and Debbie Mercer – recalled another twelve rocks being brought in.

Fire tender Debbie Mercer recollected that ten rocks were brought in for the third round and eight rocks for the fourth. Beverly Bunn and Laura Souter remembered eight rocks for the third round. And only Ms. Bunn offered any recollection of the number of rocks added during the remaining rounds – six for round four and eight for each of the last four rounds. Ms. Bunn's recollection adds up to 70 rocks, twelve more than the 58 found in the pit, and 58 is two to three times more than the usual number rocks used in traditional sweatlodges.

Ms. Mercer wasn't sure how many rocks were inside the lodge after seven rounds, but she testified, "I know in heating up the last round when he [James Ray] knew there's unconscious people in there, the last round he put ten more stones in." Adding up the numbers Debbie provided equals 52 rocks over rounds one, two, three, four, and eight. That leaves six rocks to have been brought in for rounds five, six, and seven – or two rocks per round, which lacks congruity with Mr. Ray's pattern.

Interestingly, when Det. Ross Diskin asked Debbie's husband, Ted Mercer, the fire tender, if he thought Mr. Ray had called for more grandfathers than normal, Ted replied, "Actually he was calling for less than normal because in the years before he'd get ten, twelve rocks every time, and a couple times he only asked for four." If Mr. Mercer could recall the count each round, he didn't share that memory with the YCSO. Nonetheless, the lack of recollection by anyone to remember the exact number of hot rocks used per round indicated another aspect of how the ceremony exceeded safety and control factors that could and should have been managed, especially for an eclectic group of novices.

Over half of the participants in the Spiritual Warrior Retreat sweat ceremony had never been part of a sweatlodge ceremony. The only "sweat lodge" experience for about a quarter of the group had been a James Ray sweat ceremony. Included in that group were the JRI personnel who provided support inside and outside the lodge. A small minority of the Spiritual Warrior participants had been a part of sweatlodge ceremonies facilitated by someone

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2010 SPIRITUAL WARRIOR RETREAT PROMO

2009 SPIRITUAL WARRIOR SWEAT CEREMONY: PROBABLE POSITIONS OF PARTICIPANTS

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PART 2: NARRATIVE OF 2009 5-DAY SPIRITUAL WARRIOR RETREAT

other than Mr. Ray

Hence, diverse would be the descriptions by the participants of the heat generated by Mr. Ray pouring water on the hot rocks.

Carl Nelson described the inside of the lodge as being very hot before rocks were brought in, becoming much hotter when the rocks were brought in, and when James Ray poured water on the hot rocks causing an instantaneous blast of heat.

Christine Mattern described that initial heat as "stinging."

Scott Barratt said he was astounded by how hot the air he exhaled was, so he found himself breathing very shallow

Beverly Bunn indicated she stopped chanting because it was so hard to breath.

Stephen Ray rendered this description:

It was actually very hot. After everyone was in there, they hadn't even brought any rocks, and we were already sweating. Then he started bringing in rocks, and they were white hot, red or white hot and they were really, really hot. Once the rocks were all in the pit, then he closed the door and poured some water on the rocks which created a lot of steam. Once it was closed, you could really feel the intense heat. And then when the water was gone, it was really hot. I mean you could just feel the steam roll on to you.

Stephen also stated that "when James put the water on those rocks to make that steam, it felt like I was suffocating, like I couldn't breathe."

Lou Caci had attended several of James Ray's events and had participated in the 2003 Spiritual Warrior Retreat. He indicated that the 2009 sweat ceremony was a lot hotter than the one in 2003

Robert Grain simply stated: "It was really fricking hot."

Randy Potter and William Leverage said the heat generated inside the lodge was "extreme" and very hot, and Mr. Potter recalled that his eyes were burning. Randy said that approximately fifteen years ago he had been in a sweat ceremony in Utah with four other people. Mr. Potter remembered the heat being really intense, not being able to lie down because it was in a teepee shape, and lasting maybe an hour. When Det. John Johnson asked how that earlier sweat was different than Mr. Ray's, Randy replied. "Absolutely it was different. There were periods of time where we got fresh air by having a door open. Fresh air would rush in for a short period of time. You could breathe normally. You were hot, but you were able to breathe for a minute."

Brent Mekosh had been in a sweatlodge as part of a survival training seminar he had attended in 2006. He described James Ray's sweat ceremony as being much hotter, having a lot more people, and using many more rocks. When Det. Shonna Willingham asked him if he had felt safe going into Mr. Ray's sweat ceremony, Brent didn't say "yes" or "no." He responded that overweight people and one with high blood pressure went inside Mr. Ray's sweat ceremony and that from his past experience a sweatlodge is managed for the weakest person present – and that wasn't the case with Mr. Ray.

Having never been in a sweatlodge, Sean Ronan compared his doing Bikram yoga to James Ray's sweat ceremony. The hour and a half yoga routine is done in 104°F, and the Spiritual Warrior sweat ceremony "was a lot hotter." And he was sitting in the dirt; whereas in Bikram yoga, he does stretches and is sitting comfortably on something in a nice spa-like environment.

Dawn Gordon testified that she was experienced in therapeutic saunas and judged the heat in Mr. Ray's sweat ceremony to be about ten times hotter than any sauna she had ever been in.

When Det. Willingham asked Julie Min to describe the heat inside the lodge on a scale of 1 to 10 with 1 being warm and 10 being super heated, Min replied between 8 and 10. Sitting in the southeast end of the lodge near the door, Julie said she felt air flow when the door was opened during the first few rounds, but after those initial rounds she could no longer tell a difference when the door was opened because the heat became nonstop.

Laurie Gennari echoed Min's observation, testifying that round one made her feel warm for the first time during the retreat, round two felt as if she were sitting on the bottom level of a sauna, round three felt as if she were sitting on the top level, and it continued to become hotter with each new round.

Dream Team member Aaron Bennett sat on the left hand side of the door and placed the hot rocks in the pit after they were presented at the door. He stated that the 2009 Spiritual Warrior sweat ceremony was no different than previous ones.

Almost every one of the participants who had been in a sauna stated that Mr. Ray's sweat ceremony was hotter and more intense. The lone dissenter was Dr. Jeanne Armstrong. She told detectives that she didn't enjoy getting hot and that the air in a sauna is so hot it hurts to breath. While Mr. Ray's sweat ceremony proved physically more exerting than a sauna because she was sweating more, Jeanne was able to breathe. She sat in the southwest end of the lodge, maybe three or four people away from the door, and at one of the spots furthest from the pit located off center to the north. For Jeanne, though she hadn't expected it to be so, the sweat ceremony was very doable. She was actually surprised that doing Mr. Ray's sweat ceremony was quite easy. Dr. Jeanne Armstrong's experience was such an anomaly to the



After the sweat ceremony had ended, Dr. Jeanne Armstrong said she was asked to look at Sidney because Sidney had some frothy sputum. Jeanne said that while she was doing a sternal rub to see if Ms. Spencer would respond to pain, she heard the call for help over by Kirby Brown and James Shore. Because Sidney had a pulse and was breathing on her own, Dr. Armstrong went to where Kirby and James were. Josh Fredrickson testified that JRI staffer Greg Hartle had administered CPR to Sidney, but testimony didn't establish if that was before or after Dr. Armstrong had been with Ms. Spencer.

The next thing Ms. Spencer remembered was waking up in the ICU at a hospital, she remained for four days at the hospital. The following week after Mr. Ray's sweat ceremony, Sidney informed Det. Wendy Parkison that she was still suffering problems with kidneys, liver, and feeling in her right arm and her left leg; still having blurry vision, headaches, shortness of breath, and fatigue; and experiencing difficulties with her blood pressure.

She said she hadn't felt nauseous and to endure the heat, she had put her head down and mediated. While her mind was working out solutions to some personal issues, she said the heat kind of went away. Sidney testified because of that, the sweat ceremony was amazing for her.

Randy Potter provided an extensive description of his experience during the ceremony. The first four rounds, the 220-pound (100 kg) Potter sat on the north side in the inner row two people to the left of his friend Sean Ronan, which meant he was one of the closest persons to the pit that was off center to the north. Kirby Brown sat directly behind him, and James Shore sat on Randy's right. Mr. Potter recalled not being able to lie down, so he sat with knees up. He stated breathing was difficult at the beginning of the rounds when the water was poured on the hot rocks. During the fourth round, he recalled: "My eyes are burning, I'm uncomfortable, I can't lay down, I'm having a hard time breathing, I feel like I'm about to pass out."

Randy left at the end of the fourth round and recalled James Ray telling folks as they left, "You're more than that" and "You can do this." Mr. Potter said after he had exited and was sitting on the outside, he thought, "There's all these other men that are in there. They're making it through this thing. That was definitely screwing with my head."

He had left at the end of round four when Greg Hartle, Mr. Ray's business development manager, had left. Afterwards, Randy stated he could hear Mr. Ray encouraging Greg to reenter, and when Greg did reenter at the start of the sixth round, on impulse so did Mr. Potter. Randy sat near the door next to Aaron Bennett who was placing the hot rocks in the pit. Randy said that "it was considerably cooler, I could lay down, and when the door opened you got fresh air, you could breathe." As rounds went on and other people reentered, Randy moved further to this left, but said he didn't know if he were in a front or back row "because at that point there was hardly rows left, it was just people laying down." For the last three rounds, he lay on the ground and put his face toward the edge of the lodge because it seemed cooler.

He recalled that people were passing out at the beginning of the sixth round and that he began assisting people who were unconscious or disoriented out of the lodge.

When Det. John Johnson asked Mr. Potter to confirm that he noticed folks passing out at the beginning of round six, Randy replied, "Yeah, I think that would be a fair statement. And you could hear people hyperventilating."

Inconsistent with Mr. Potter's return at the start of the sixth round was his recollection that "when I came back in the fifth round, there was many indications that this thing was not going well with one of them being Lou who crawled into the pit with these hot rocks. He was crawling towards it on his stomach, and I could see him go towards the pit, and I'm screaming at him to stop, and he goes into it, and I continue yelling at him."

Randy also remembered sometime after he had reentered and while the door was opened, someone lifted the tarp on the north side where he had sat the first four rounds. Mr. Potter said James Ray asked, "What's going on?" After being told someone had lifted the tarp, Mr. Ray told them, "Put that down." Randy stated "it was words to that effect, I don't recall exactly what the wording was, the intent of it was put that down."

Towards the end of the sweat ceremony, Mr. Potter remembered hearing people hyperventilating and Mr. Ray "would yell out, 'You need to control your breathing; you need to slow your breath down.'" But Randy said, "It was very difficult to notice what was going on around you because you had to put all of your energy into keeping your breathing under control and focusing on staying calm. At least that's what it was for me."

Det. Johnson asked if anyone gave instructions how to handle people becoming unconscious. Randy remembered Mr. Ray "made the comment if you pass out you'll be taken care of."

Reflecting on the experience, Mr. Potter told Det. Johnson:

The first time when I came out, I was totally thinking there's no way I'm going back in there because my vision was distorted and my head spinning and I just literally feel like I'm gonna die. And that was similar when I came out later – pretty physically exhausted but nothing like it was the first time. The intensity was much greater the first time. The only real effect that carried on was my head was pounding until the following morning and I felt a bit nauseous like I

COVERINGS

Sweat ceremonies that evolved with impermeable materials such as the wood enclosed sauna of Finland or the adobe encased sweatlodges of some Native American cultures of the American Southwest differ from the sweat ceremony that has evolved with the building style associated with the Plains Indian which arose with the use of coverings composed of animal skins or plant materials. A door-like flap provides ingress and egress to the covered lodge. While these traditional materials have yielded to contemporary use of blankets and canvas, the tenet for this type of sweating ritual hasn't changed the sweatlodge must be able to breath, both physically and spiritually

Compare what you would feel like wearing a long sleeve cotton shirt on a very warm day to what you would feel like wearing a long sleeve vinyl rain jacket on that same very warm day. The cotton top breaths away some of the sweat and heat; the impermeable rain jacket traps all the heat and moisture inside next to your body. That is similar to the difference between using blankets and canvas coverings to using plastic coverings on a sweatlodge structure. Clothing to wear inside traditional sweatlodges is loose fitting cotton apparel, not tight fitting swimsuits or clothing made of newfangled materials that are woven together to wick away heat and that require cold water washings

Nonetheless, to satisfy Mr Ray's repeated desire to make his sweat ceremony "hotter" at Angel Valley, the Hamiltons shifted from using old blankets and drapes to having a base layer of blankets below a thin blue tarp which was covered by a thick brown tarp. These tarps intensified heat and humidity generated by mid-afternoon sun, rocks, steam, and human bodies inside the structure. There is no testimony how Mr Ray, his staff, or even the Hamiltons proposed to compensate for this intensified heat and humidity that would result from the use of a material that doesn't breath

The 2009 Spiritual Warrior sweat ceremony started around 3 PM. Usually three hours after high noon is when daytime temperatures reach a zenith, and the daytime temperature in this part of Arizona would begin to wane around 5 PM with the October sun dipping behind the mountainous terrain to the west before setting around 5:30. Since Arizona doesn't observe Daylight Saving Time, celestial high noon is around 12:00 hours, not 13 00 hours as with Daylight Saving Time. According to various weather data, the high temperature Thursday, October 8, was between 67°F to 70°F under clear skies. Aerial photographs by news outlets and YCSO photographs of the area around the dome structure revealed that the structure sat imprudent to the desert sky. The lodge's skin of plastic tarps and other coverings would have accumulated entrapped heated air, unless all the sides had been elevated to allow for ventilation. There lacks any testimony of how Mr Ray had the covered lodge managed prior to his arrival with his clients or if he had it ventilated in any manner. Rather, testimony implied that there had been no cross ventilation of the covered structure during the day.

Carl Nelson stated that it was very hot inside the lodge structure before any rocks had been brought in. Stephen Ray (no relation to James Ray) said, "It was actually very hot. So after everyone was in there, they hadn't even brought any rocks, and we were already sweating" While temperatures in the 80°Fs or even 90°Fs inside a plastic covered dome structure aren't life threatening, a temperature in the 60°Fs because sides had been opened would have made a considerable difference on the impact of heat on the participants for the first one or two rounds.

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25 May 2010

Independent Medical Report/Evaluation

Preliminary Report

To: Mr. James H. Dyer

Re: Mehravar v. Ray, et al.

Prepared by: Francis G. O'Connor, MD, MPH

Date of Incident: 8 October 2010

Location of Incident: Sedona, Arizona

Description of Incident: Mr. Mehrdad "Dennis" Mehravar, a 41 y/o male, was attending a James Ray event, "Vision Quest", which culminated in an experience in a sweat lodge. During the experience in the sweat lodge he sustained a significant heat exposure, and experienced marked difficulty breathing, resulting in collapse in the tent. His next memory is that of having water poured on him, and a subsequent sense of profound weakness, disorientation and chest pain. He was identified by emergency personnel as complaining of significant headache and was transported to a local medical facility, Verde Valley Medical Center. On site, his temperature was recorded at 95.4 (normal). Mr. Mehravar was discharged home from the emergency room with a diagnosis of altered mental status and confusion of unclear etiology. Complications identified and treated in the hospital included mild dehydration and mild liver enzyme elevation. Mr. Mehravar was subsequently seen by his home health care system for persistent weakness, evaluation of chest pain and follow-up; laboratory studies, CXR and an exercise stress test were performed and found to be within normal limits. A subsequent psychiatric examination performed nearly six months after the experience in the sweat lodge identified that Mr. Mehravar continues to suffer with post-traumatic stress disorder.

Materials Reviewed:

- Investigation Narrative: Deputy Willingham
- Verde Valley Ambulance Report
- Verde Valley Medical Center Records
- CML Healthcare Records
- IME Carole Lieberman, MD, MPH

Timeline:**8 October 2009**

1530 Mr. Mehravar enters Sweat Lodge. He complains of feeling dizzy after the fifth round, and tries to depart from the sweat lodge, when he collapses and is extracted from the tent and reportedly cooled with water.

1751 Verde Valley Ambulance dispatched to the scene; enroute by 1753.

1814 Verde Valley Ambulance arrives on scene and finds Mr. Mehravar, who was initially reported unresponsive, as alert and complaining of a headache.

1821 Conscious; skin warm and dry.

1837 Ambulance enroute to Verde Valley Medical Center.

1908 Arrival at Verde Valley Medical Center.

1917 Initial assessment and orders at Medical Center.

2153 Discharged home from Verde Valley Medical Center.

Conclusions and Opinions:

1. **Mr. Mehravar, in my opinion, collapsed into unconsciousness secondary to a combination of factors including: prolonged hypoxia and hypercarbia in a crowded sweat lodge; exposure to environmental extreme temperatures; attendance at an event where "pushing beyond ones limits" was encouraged.**
 - a. Mr. Mehravar, on 8 October 2009, while participating in a sweat lodge experience, collapsed, requiring extraction from a potentially fatal environment, and intervention with immediate cooling. On the scene, the ambulance record reports that Mr. Mehravar was observed by bystanders to unconscious and collapsed for "a while" and at the time of assessment was feeling "weird" and complaining of a severe headache graded at 7/10.
 - b. **A history of collapse, prolonged unconsciousness and persistent headache suggests that Mr. Mehravar at that time was suffering from a significant brain insult, most probably from either a lack of oxygen (asphyxia), or significant hyperthermia. He required on the scene cooling assisting in management of a probable heat injury. Emergent medical care identified confusion at the scene and suspected not only heat injury, but potential carbon monoxide poisoning. He was evacuated to Verde Valley Medical Center where he was evaluated for altered consciousness of unclear etiology. The initial working diagnosis of the medical staff was possible carbon monoxide toxicity; a carboxyhemoglobin level was later determined to be normal ruling out this diagnosis.**
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- c. While heat exposure clearly contributed to Mr. Mehravar's collapse, and subsequent metabolic (mild metabolic acidosis) and neurologic complications (collapse, confusion, and headache), his medical care and presentation do not suggest a "textbook" heat stroke collapse presentation. Heat stroke (HS) is defined as a syndrome of hyperthermia (core temperature at time of event usually $\geq 40^{\circ}\text{C}$ or 104°F), physical collapse or debilitation, and encephalopathy as evidenced by delirium, stupor, or coma, occurring during or immediately following exertion or significant heat exposure. HS can be complicated by organ and/or tissue damage, systemic inflammatory activation, and disseminated intravascular coagulation. Classic heat stroke, as would be the possibility identified in this instance, is the result of thermoregulatory failure as a consequence of environmental heat exposure (1). Elements that support this diagnosis include central nervous system dysfunction, which are clearly present in Mr. Mehravar's case, as well as a probable elevated temperature, that prompted immediate cooling measures. In most cases of heat stroke, rapid cooling is required in order to minimize morbidity and prevent progression to death. In Mr. Mehravar's case there is no record of an elevated temperature at the time of cooling; in addition the medical record does not describe that aggressive cooling was required to restore normal central nervous system function. In fact, the first temperature recorded is low-normal and Mr. Mehravar reported being cold. As previously described, it is not uncommon for patients to report being cold after a heat injury being treated by cooling, with many becoming frankly hypothermic. Passive recovery from a heat injury, without the intervention of active cooling ($0.3^{\circ}\text{C}/\text{min}$), has been determined to be approximately $0.1^{\circ}\text{C}/\text{min}$. Therefore, in the absence of a rectal temperature at the time of injury to document heat stroke or for several hours after lodge extraction, the presentation, complications, presence of a cooling effort, and knowledge of passive cooling dynamics, support the probability of a significant heat casualty in this scenario.
- d. While there is a lack of evidence in the medical record to establish a clear diagnosis of heat stroke, the record at the medical center clearly supports evidence for a heat illness, in particular heat injury, which is a complex form of heat exhaustion. Heat exhaustion (HE) is defined as a syndrome of hyperthermia (core temperature at time of event usually $\leq 40^{\circ}\text{C}$ or 104°F) with physical collapse or debilitation occurring during or immediately following exertion in the heat, with no more than minor central nervous system (CNS) dysfunction (e.g. headache, dizziness). HE resolves rapidly with minimal cooling intervention. Heat injury (HI), in turn, is defined as HE with clinical evidence of organ (e.g. liver, renal, brain) and/or muscle

(e.g. rhabdomyolysis) damage without sufficient neurological symptoms to be diagnosed as heat stroke (1). Mr. Mehravar's medical course clearly demonstrates a presentation consistent with HI with evidence of collapse, unconsciousness, mild elevation of the liver transaminase ALT which can additionally be an early marker of muscle injury or rhabdomyolysis (muscle breakdown), and mild acute kidney injury with an elevation of serum creatinine, which are common consequences of excessive heat exposure.

- e. The central nervous system symptomatology in this case includes collapse, unconsciousness, and headache, which can result from the brain's lack of oxygen and/or hyperthermia. Descriptions at the scene, knowledge of the sweat lodge injury pattern, and knowledge of Mr. Mehravar's presentation suggest that a combination of hypoxia (low oxygen) and hypercarbia (high carbon dioxide), in concert with a heat injury, in a crowded environment most probably contributed to Mr. Mehravar's collapse and eventual period of unconsciousness. In my opinion, Mr. Mehravar suffered a collapse event and prolonged loss of consciousness as a result of the combination of hypoxia (asphyxia) and excessive heat.

2. Mr. Mehravar, in my opinion, should not be held responsible for identifying his own need for emergency medical care as the hallmarks of heat illness, dizziness, confusion and lack of insight into disease severity, are common disease clinical manifestations.

- a. Hallmarks of heat illness include nausea, which makes consuming needed fluid difficult, as well as dizziness and confusion, which limits insight into disease severity. In addition, individuals who are under time pressures, challenging work environments, or in situations that they cannot self-adjust, are predisposed to struggling with heat loads (2). The setting in the sweat lodge was designed to encourage individuals to push beyond their normal limits. **Mr. Mehravar, who had an established relationship of trust with Mr. Ray, felt an obligation to persist through the stress of the sweat lodge to set an example for others.** Accordingly, individuals who might normally remove themselves from an uncomfortable environment would remain in the lodge either under peer pressure, or under the questionable pretense that the excessive heat would lead to new enlightenment. Situations that subject individuals to the possible risks of heat illness, such as military training, and sports activities, warrant supervision by those in a position of authority (3, 4).

3. Mr. Mehravar, in my opinion, had evidence of a significant case of heat exposure resulting in complications to include collapse, loss of consciousness, and post-traumatic stress disorder.

- a. After careful review of the medical records it is clear that Mr. Mehravar sustained a heat injury. As previously described, the collapse, loss of consciousness, altered mental status, and persistent headache all suggest central nervous system involvement, and in the setting of a severe heat load argue for a diagnosis of heat exhaustion and injury, if not heat stroke. Given related observations from this event, it is additionally clear that the extraction from the tent and the early cooling were probably life saving. It also appears that the early cooling most probably limited the morbidity from the heat exposure, as Mr. Mehravar did not appear to suffer with severe metabolic consequences when compared with several other attendees.
- b. Mr. Mehravar, however, did have evidence of neurologic impairment with collapse, unconsciousness, and headache. In addition, his own description at the time of the event describes extreme disorientation, stress and intense fear. These feelings have been recurrent and a recent psychiatric evaluation has concluded that Mr. Mehravar suffers with post-traumatic stress disorder (PTSD). There is literature that has evaluated the presence of neurologic injury after significant heat injury. Central nervous system function generally recovers rapidly in most survivors, however, there is additional evidence to suggest that severe EHS can result in significant neurologic complications that can be permanent (15-17). While I am unaware of the exact nature of PTSD following a significant heat injury, Mr. Mehravar's PTSD is unique, in light of the significant morbidity and mortality that was created through this event.

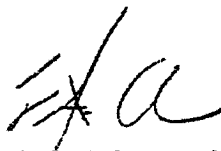
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- a. No. The timeline of events reveals that the temperature was taken on site by an ambulance crew. This crew arrived on scene at 1814, and we can assume that a temperature was taken shortly thereafter. It can further be assumed from other records that Mr. Mehravar had been out of the tent for at least 30 minutes if not longer, and an attempt had been made to cool. It is not uncommon to return to a normal temperature after cooling, and many times patients can actually become hypothermic, as is seen in this case, after a significant heat exposure. In addition, it is not clear the means by which the temperature was ascertained. The literature is clear that the only effective means of temperature determination in the scenario of exertional heat illness is rectal temperature; it is unlikely that a rectal temperature was taken on scene (9-14).
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5. **Mr. Mehravar, as a result of his heat injury with associated complications, has a higher risk for future morbidity and mortality, than if neither had occurred.**
 - a. The medical literature is clear in that heat injury complicated by end organ damage, while treatable, and seemingly recoverable, can have potentially unfavorable long term consequences. While the exact explanation for why victims of significant heat illness have an increased for all-cause mortality is unknown and it is difficult to suggest a particular risk for a given individual, the association is well documented in the medical literature. **Recent studies in the military demonstrate up to a 40% increased risk of all cause-mortality for victims of heat illness when compared with age matched controls (5).** Of note in this manuscript, individuals were admitted to the hospital for care. Mr. Mehravar was not admitted; however, he was encouraged to stay in the hospital but declined. In addition, while Mr. Mehravar appears to have had early cooling which clearly limited end organ dysfunction, the mechanisms by which significant heat injury accounted for an increased risk of future complications are not completely understood at this time and remain a scientific question. Accordingly, Mr. Mehravar could be expected to have a genuine and serious fear for an increased risk for long term consequences.
6. **Did Mr. Mehravar sustain a cardiac injury in the sweat lodge?**
 - a. Mr. Mehravar reported chest pain at the time of injury. Subsequent evaluation in the emergency room and by his primary care team demonstrated that there was no apparent cardiac injury with evidence of a normal troponin and a normal exercise stress test. A subsequent evaluation by Dr. Lieberman raised the real likelihood of the chest pain being a conversion disorder related to his unconscious psychological conflict; his chest pain directly representing the fact that he is "heart sick" over the betrayal of trust with Mr. Ray, as well as the deaths of other participants.
7. **Mr. Mehravar had multiple risk factors for a potential heat injury.**
 - a. Heat illness in many cases is predictable, and accordingly largely preventable. In this case, Mr. Mehravar had many predisposing risk factors prior to entering the tent, including: fatigue; probable dehydration; poor nutritional status; and age. These risk factors, in combination with a sweat lodge with little air movement, created an environment primed to produce heat injury, and/or asphyxia in the absence of proper supervision.

8. **The failure to promptly identify Mr. Mehravar's distress in the sweat lodge and to urgently render aide was the direct cause of collapse, the prolonged loss of consciousness as well as the exertional heat injury and associated complications, to include post-traumatic stress disorder.**

- a. Heat illness is largely a preventable injury. The military, sports community and occupational industries are well aware of the consequences of both classic and exertional heat illness, and therefore take prevention seriously (8). As exertional heat illness can be oblivious to the affected individual, buddy systems and good supervision and leadership are the hallmarks of prevention. It is also well documented that severe heat illness is an acute and life threatening emergency that can lead to death with mortality rates as high as 80%. Additionally, the literature demonstrates that the sooner common rapid cooling measures such as body immersion in iced water or advanced evaporative cooling are applied to individuals suspected to have a heat illness, the better chance these individuals have of recovery without any end organ damage or death. While Mr. Mehravar does report that he had water appropriately poured over him, heat illness is most effectively treated by ice water immersion, preferably in the hands of trained medical personnel. It is not clear in the documentation provided if the water was appropriately cooled, or if medical personnel were on site. In addition, it is not clear at this time when emergency medical help was notified upon recognition that heat casualties were clearly present and required advanced care. The current literature clearly states that it is vitally important to intervene early when severe heat illness is suspected to limit end organ (liver, kidney, brain) damage and its sequelae so that later life health complications and/or early death might be prevented (1, 4). In this case, there was a preventable delay that did result in collapse, prolonged loss of consciousness, and headache, and most probably contributed to Mr. Mehravar's persistent post-traumatic stress. While Mr. Mehravar was fortunate to sustain limited metabolic morbidity from the heat injury, he did demonstrate acute central nervous system injury with a collapse and now continues to suffer with a persistent neuropsychological injury in the form of post-traumatic stress disorder. The future complications of this injury are unknown, but according to the literature, suggest a future increased risk for all-cause mortality and potential difficulty with long term heat intolerance (5).



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25 May 2010

Independent Medical Report/Evaluation

Preliminary Report

To: Mr. James H. Dyer

Re: Mehravar v. Ray, et al.

Prepared by: Francis G. O'Connor, MD, MPH

Date of Incident: 8 October 2010

Location of Incident: Sedona, Arizona

Description of Incident: Mr. Mehrdad "Dennis" Mehravar, a 41 y/o male, was attending a James Ray event, "Vision Quest", which culminated in an experience in a sweat lodge. During the experience in the sweat lodge he sustained a significant heat exposure, and experienced marked difficulty breathing, resulting in collapse in the tent. His next memory is that of having water poured on him, and a subsequent sense of profound weakness, disorientation and chest pain. He was identified by emergency personnel as complaining of significant headache and was transported to a local medical facility, Verde Valley Medical Center. On site, his temperature was recorded at 95.4 (normal). Mr. Mehravar was discharged home from the emergency room with a diagnosis of altered mental status and confusion of unclear etiology. Complications identified and treated in the hospital included mild dehydration and mild liver enzyme elevation. Mr. Mehravar was subsequently seen by his home health care system for persistent weakness, evaluation of chest pain and follow-up; laboratory studies, CXR and an exercise stress test were performed and found to be within normal limits. A subsequent psychiatric examination performed nearly six months after the experience in the sweat lodge identified that Mr. Mehravar continues to suffer with post-traumatic stress disorder.

Materials Reviewed:

- Investigation Narrative: Deputy Willingham
- Verde Valley Ambulance Report
- Verde Valley Medical Center Records
- CML Healthcare Records
- IME Carole Lieberman, MD, MPH

Timeline:**8 October 2009**

1530 Mr. Mehravar enters Sweat Lodge. He complains of feeling dizzy after the fifth round, and tries to depart from the sweat lodge, when he collapses and is extracted from the tent and reportedly cooled with water.

1751 Verde Valley Ambulance dispatched to the scene; enroute by 1753.

1814 Verde Valley Ambulance arrives on scene and finds Mr. Mehravar, who was initially reported unresponsive, as alert and complaining of a headache.

1821 Conscious; skin warm and dry.

1837 Ambulance enroute to Verde Valley Medical Center.

1908 Arrival at Verde Valley Medical Center.

1917 Initial assessment and orders at Medical Center.

2153 Discharged home from Verde Valley Medical Center.

Conclusions and Opinions:

1. **Mr. Mehravar, in my opinion, collapsed into unconsciousness secondary to a combination of factors including: prolonged hypoxia and hypercarbia in a crowded sweat lodge; exposure to environmental extreme temperatures; attendance at an event where "pushing beyond ones limits" was encouraged.**
 - a. Mr. Mehravar, on 8 October 2009, while participating in a sweat lodge experience, collapsed, requiring extraction from a potentially fatal environment, and intervention with immediate cooling. On the scene, the ambulance record reports that Mr. Mehravar was observed by bystanders to unconscious and collapsed for "a while" and at the time of assessment was feeling "weird" and complaining of a severe headache graded at 7/10.
 - b. **A history of collapse, prolonged unconsciousness and persistent headache suggests that Mr. Mehravar at that time was suffering from a significant brain insult**, most probably from either a lack of oxygen (asphyxia), or significant hyperthermia. He required on the scene cooling assisting in management of a probable heat injury. Emergent medical care identified confusion at the scene and suspected not only heat injury, but potential carbon monoxide poisoning. He was evacuated to Verde Valley Medical Center where he was evaluated for altered consciousness of unclear etiology. The initial working diagnosis of the medical staff was possible carbon monoxide toxicity; a carboxyhemoglobin level was later determined to be normal ruling out this diagnosis.
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- c. While heat exposure clearly contributed to Mr. Mehravar's collapse, and subsequent metabolic (mild metabolic acidosis) and neurologic complications (collapse, confusion, and headache), his medical care and presentation do not suggest a "textbook" heat stroke collapse presentation. Heat stroke (HS) is defined as a syndrome of hyperthermia (core temperature at time of event usually $\geq 40^{\circ}\text{C}$ or 104°F), physical collapse or debilitation, and encephalopathy as evidenced by delirium, stupor, or coma, occurring during or immediately following exertion or significant heat exposure. HS can be complicated by organ and/or tissue damage, systemic inflammatory activation, and disseminated intravascular coagulation. Classic heat stroke, as would be the possibility identified in this instance, is the result of thermoregulatory failure as a consequence of environmental heat exposure (1). Elements that support this diagnosis include central nervous system dysfunction, which are clearly present in Mr. Mehravar's case, as well as a probable elevated temperature, that prompted immediate cooling measures. In most cases of heat stroke, rapid cooling is required in order to minimize morbidity and prevent progression to death. In Mr. Mehravar's case there is no record of an elevated temperature at the time of cooling; in addition the medical record does not describe that aggressive cooling was required to restore normal central nervous system function. In fact, the first temperature recorded is low-normal and Mr. Mehravar reported being cold. As previously described, it is not uncommon for patients to report being cold after a heat injury being treated by cooling, with many becoming frankly hypothermic. Passive recovery from a heat injury, without the intervention of active cooling ($0.3^{\circ}\text{C}/\text{min}$), has been determined to be approximately $0.1^{\circ}\text{C}/\text{min}$. Therefore, in the absence of a rectal temperature at the time of injury to document heat stroke or for several hours after lodge extraction, the presentation, complications, presence of a cooling effort, and knowledge of passive cooling dynamics, support the probability of a significant heat casualty in this scenario.
- d. While there is a lack of evidence in the medical record to establish a clear diagnosis of heat stroke, the record at the medical center clearly supports evidence for a heat illness, in particular heat injury, which is a complex form of heat exhaustion. Heat exhaustion (HE) is defined as a syndrome of hyperthermia (core temperature at time of event usually $\leq 40^{\circ}\text{C}$ or 104°F) with physical collapse or debilitation occurring during or immediately following exertion in the heat, with no more than minor central nervous system (CNS) dysfunction (e.g. headache, dizziness). HE resolves rapidly with minimal cooling intervention. Heat injury (HI), in turn, is defined as HE with clinical evidence of organ (e.g. liver, renal, brain) and/or muscle

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- e. The central nervous system symptomatology in this case includes collapse, unconsciousness, and headache, which can result from the brain's lack of oxygen and/or hyperthermia. Descriptions at the scene, knowledge of the sweat lodge injury pattern, and knowledge of Mr. Mehravar's presentation suggest that a combination of hypoxia (low oxygen) and hypercarbia (high carbon dioxide), in concert with a heat injury, in a crowded environment most probably contributed to Mr. Mehravar's collapse and eventual period of unconsciousness. In my opinion, Mr. Mehravar suffered a collapse event and prolonged loss of consciousness as a result of the combination of hypoxia (asphyxia) and excessive heat.
2. **Mr. Mehravar, in my opinion, should not be held responsible for identifying his own need for emergency medical care as the hallmarks of heat illness, dizziness, confusion and lack of insight into disease severity, are common disease clinical manifestations.**
 - a. Hallmarks of heat illness include nausea, which makes consuming needed fluid difficult, as well as dizziness and confusion, which limits insight into disease severity. In addition, individuals who are under time pressures, challenging work environments, or in situations that they cannot self-adjust, are predisposed to struggling with heat loads (2). The setting in the sweat lodge was designed to encourage individuals to push beyond their normal limits. **Mr. Mehravar, who had an established relationship of trust with Mr. Ray, felt an obligation to persist through the stress of the sweat lodge to set an example for others.** Accordingly, individuals who might normally remove themselves from an uncomfortable environment would remain in the lodge either under peer pressure, or under the questionable pretense that the excessive heat would lead to new enlightenment. Situations that subject individuals to the possible risks of heat illness, such as military training, and sports activities, warrant supervision by those in a position of authority (3, 4).
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4. Does the recorded temperature of 95.4 on site imply that Mr. Mehravar did not sustain a significant heat injury?

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8. **The failure to promptly identify Mr. Mehravar's distress in the sweat lodge and to urgently render aide was the direct cause of collapse, the prolonged loss of consciousness as well as the exertional heat injury and associated complications, to include post-traumatic stress disorder.**

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